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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial report of States Parties due in 1993

Addendum

SPAIN

[10 AUGUST 1993]

CONTENTS

		Paragraphs	Page
I.	BACKGROUND INFORMATION AND GENERAL MEASURES	1 - 77	9
A.	Circumstances and difficulties affecting the degree to which the obligations arising from the Convention are implemented	1 - 6	9
B.	Harmonization of national legislation and policy with the provisions of the Convention	7 - 19	9
C.	Encouragement and facilitation of participation in and monitoring of government policies by the public	20 - 26	12
D.	Exchanges of views with the Committee on the Rights of the Child	27 - 28	14

CONTENTS (cont.)

		Paragraphs	Page
I.(cont.)			
	E. National and local mechanisms for coordinating policy in regard to children and monitoring the application of the Convention	29 - 50	14
	F. Measures for making the principles and provisions of the Convention widely known by appropriate and active means to adults and children alike	51 - 61	19
	G. Measures to ensure the wide dissemination among the general public of the Report on the Application of the Convention in Spain	62	21
	H. International cooperation and solidarity	63 - 77	21
II.	DEFINITION OF A CHILD	78 - 92	26
III.	COMPLIANCE WITH THE GENERAL PRINCIPLES UNDERLYING THE CONVENTION	93 - 110	29
	A. Measures concerned with non-discrimination	95 - 101	30
	B. Measures concerned with the principle of the best interests of the child	102 - 104	33
	C. Measures concerned with the right to life, survival and development	105	34
	D. Measures concerned with respect for the child's opinion	106 - 110	34
IV.	CIVIL RIGHTS AND FREEDOMS	111 - 147	36
	A. Name and nationality	111 - 113	36
	B. Preservation of identity	114 - 115	36
	C. Freedom of expression	116 - 120	36
	D. Access to relevant information	121 - 127	37
	E. Freedom of thought, conscience, religion, association and assembly	128 - 134	39
	F. Protection of privacy	135 - 139	40
	G. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment	140 - 147	41

CONTENTS (cont.)

		Paragraphs	Page
V.	FAMILY ENVIRONMENT OR OTHER FORM OF GUARDIANSHIP . . .	148 - 195	44
	A. The child's own family environment	148 - 159	44
	B. Children deprived of a family environment . . .	160 - 195	47
VI.	BASIC HEALTH AND WELFARE	196 - 236	57
	A. The health of Spanish children	196 - 214	57
	B. The maternal and child heath programme of the Ministry of Health and Consumer Affairs .	215 - 232	60
	C. The wellbeing of handicapped children	233 - 236	65
VII.	EDUCATION, LEISURE, CULTURAL ACTIVITIES AND CONSUMPTION	237 - 310	67
	A. Formal education	237 - 286	67
	B. Leisure and cultural activities	287 - 298	79
	C. Consumption	299 - 310	81
VIII.	SPECIAL MEASURES OF PROTECTION	311 - 356	85
	A. Child refugees	311 - 312	85
	B. Children affected by armed conflicts: promotion of physical and psychological recovery and social reintegration	313 - 317	85
	C. Administration of juvenile justice and measures taken	318 - 326	87
	D. Imposition of the death penalty and life imprisonment	327	88
	E. Physical and psychological recovery and social reintegration	328 - 333	88
	F. Economic exploitation, including child labour .	334 - 349	89
	G. Illicit use of narcotic drugs	340 - 342	90
	H. Sexual exploitation and abuses	343 - 345	90
	I. Sale of, traffic in, or abduction of children .	346 - 347	90
	J. Children belonging to minorities	348 - 351	91

CONTENTS (cont.)

Tables*

1. Subsidies of the Ministry of Social Affairs for children's programmes 1990-1992

2. Children for whom the competent body of the Autonomous Community concerned acts as supervisor and guardian at the request of the person vested with parental authority

3. Number of children with means of family support and looked after in foster-families by Autonomous Communities

4. Total number of children looked after in Centres of Protection for Juveniles on 31 December 1989

5. Data on proceedings in the Children's Protection System, 1990-1991

6. Social security benefits for orphans (1985-1992)

7. Causes of infant mortality, 1988

8. Causes of hospital morbidity, 1989

9. Morbidity by type of complaint

10. Hospital morbidity rate by age group and chronic diseases, 1987

11. Accidents per 100 000 inhabitants by age group, 1987

12. Most recent accident by sex and age, 1987

13. Tobacco consumption among schoolchildren, 1990

14. Beer consumption among schoolchildren, 1990

15. Pupils who have never been given information on topics of sexual education, 1980

16. Cases of AIDS among children in Spain

17. Handicapped persons in Spain, according to type of handicap, sex and age (0-14 years)

18. Types of handicaps and deficiencies in children under six years of age

19. Types of handicaps and deficiencies in children between six and seventeen years of age

20. Level of education of handicapped persons under 18 years of age

21. Recipients of disability benefits from the social security authorities, by sex and age (1991)

* May be consulted in the archives of the Centre for Human Rights.

CONTENTS (cont.)

Tables (cont.)

22. Surviving child AIDS cases recorded in the National Register

23. Ordinary schools of the Spanish educational system, public and private, 1990-1991

24. Number of pupils in ordinary schools, public and private, 1990-1991

25. Percentage of children in school, by age and type of education (whole of Spain), 1987-1988

26. Number of pupils classified by level of education and ownership of the school concerned (1988-1989)

27. Number of teaching staff classified by sex and level of education, 1988-89

28. Evolution of the number of nursery school pupils according to authority responsible (1970-1991)

29. Evolution in number of pupils enrolled in basic general education, according to the authority responsible (1970-1989)

30. Basic general education pupils in Spain. School year 1988/1989; repeaters by sex and authority responsible (Ministry of Education and Science area)

31. Pupils enrolled in special education by type of school and authority responsible (1980-1988)

32. Special education pupils in specific schools according to authority responsible, sex, and main problems dealt with (1988-1989)

33. Special education pupils in non-specific schools according to authority responsible and main problems dealt with

34. Pupils enrolled in specific special education schools by level of education

35. Pupils covered by the Remedial Education Programme of the Ministry of Education and Science (MES)

36. Pupils covered by the "Rural area" subprogramme of the Remedial Education Programme. MES area

37. Pupils covered by the "Project in Schools" subprogramme of the Remedial Education Programme. MES area (1991-1992)

38. Pupils covered by the "Children deprived of schooling" subprogramme (14-16) Remedial Education Programme. MES area

39. Pupils covered by the "Ethnic minorities" subprogramme. Remedial Education Programme. MES area

CONTENTS (cont.)

Tables (cont.)

40. Grants awarded (1990-1991)

41. Number of pupils of foreign nationality. Public basic general education schools and nursery schools. School year 1992-93

42. Public-sector schools with fewer than 8 basic general education units and the number of pupils enrolled in them. School year 1991/92

43. Proportion of grouped rural schools by provinces. School year 1992/93

44. Grouped rural schools. Differences between school years 1991/92 and 1992/93

45. Most common leisure activities between 6 and 19 years of age, by sex (1985)

46. Distribution of leisure time according to age (1988)

47. Physical activities commonly practised by Spanish schoolchildren

48. Activities connected with reading

49. Activities connected with the cinema and photography

50. Open-air leisure activities

51. Membership of associations (15-19 years) and the types of association joined

52. Age of first joining an association

53. Activities of education for consumption

54. Refugee children

55. Children affected by armed conflicts

56. Minors detained by the police in 1992, by reason for detention

57. Orders for reformatory procedures dealt with by juvenile court judges in the course of 1989, by province

58. Number of people dealt with in reformatory centres, by sex and autonomous community, as of 31 December, 1989

59. Number of people in reformatory centres, according to type of centre as of 31 December 1989

60. Number of people in reformatory centres, according to whether the centre is public or private

CONTENTS (cont.)

Tables (cont.)

61. Judicial proceedings and offences detected in which minors were implicated, 1990-1992

62. Foreign workers aged 16-17 years with valid permits on 31 December 1991

63. Drug abuse: pupils who have used cannabis at least once in their lives

CONTENTS (cont.)

Supplementary report to the initial report*

I. Ages provided for by the Spanish legal order

II. Spanish legal texts relevant to children:

Vol. I: State legislation

Vol. II: Legislation of Autonomous Communities (in preparation)

III. Contributions by NGOs dealing with children to the report of the Government of Spain on the implementation of the Convention on the Rights of the Child

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* Available for consultation in the files of the Centre for Human Rights.

I. BACKGROUND INFORMATION AND GENERAL MEASURES

A. Circumstances and difficulties affecting the degree to which the obligations arising from the Convention are implemented

1. There are no difficulties of a juridical nature. It must be emphasised that the delay in ratifying this convention has been due only to the extremely complex procedure laid down in Spanish legislation for ratifying international instruments (Art. 93 and following of the Constitution).

2. A factor to remember is that so far the bulk of Spanish public opinion has shown little awareness of the problem and this makes difficult any really rapid establishment of the rights of the child. It cannot be said that there is any disagreement or resistance but simply that little importance or priority is attached to the matter. It may be said that for many Spaniards the rights of the child are a question on which there is a large degree of agreement but not very intense interest.

3. Another social conditioning factor is the lack of interest in this subject on the part of the media in Spain. The absence of initial response in the media to Spanish adoption and later ratification of the Convention has made it difficult to begin making it widely known and well entrenched.

4. Among favourable elements emphasis may be laid on the one hand on a modern Constitution, which takes into account the exercise of individual rights, and on the other hand the positive attitudes of the public administrative authorities, which are thus leading to the development of a new field of legislation that affects various aspects of law and hence of society.

5. In concrete terms, four autonomous communities (Andalusia, the Canaries, Catalonia and Madrid) have already established offices specifically concerned with child care. Some have also developed specific research on particular problems of children in their territories. All of them have their own programme of subsidies for non-governmental organisations (NGOs), in addition to the programme of the Ministry of Social Affairs, which is referred to in Section I.C.

6. For their part, the Spanish local authorities are also playing a decided and important role, both in improving the system of protection of children in Spain (which will be discussed in greater detail in Section V.B) and in the promotion of children's well-being and decentralized cooperation for development.

B. Harmonization of national legislation and policy with the provisions of the Convention

7. The entry into force of the Convention in Spain has made it necessary to amend legislation on particular aspects of childhood. The following may be singled out as significant:

1. Administration of juvenile justice

8. In this regard the Constitutional Court, in a judgement of 14 February 1991, has stated its position in regard to the 1948 legislation on juvenile courts, declaring unconstitutional the procedure which was followed in

them. It took as a basis for the ruling the guarantees established by the Convention, emphasizing, among other considerations, that:

> "The Convention on the Rights of the Child does not entirely exclude the possibility of a non-judicial procedure with purely corrective aims, distinct not only in nuances and details but in its general conception from the criminal process. Recourse to a procedure of this kind in which, in every case, full respect will be paid to human rights and legal guarantees depends, nevertheless, on the establishment of a minimum age below which it will be presumed that children do not have legal capacity to infringe the criminal law.
>
> The procedure governed by Article 15 of the Juvenile Courts Act is not the procedure distinct from the penal process that is referred to in Article 40.3(b) of the Convention, but a procedure which derives from a specified criminal (or administrative) action or omission alleged to have been committed by a minor, that is to say a procedure with penal effects applicable to minors.
>
> Both the International Covenant on Civil and Political Rights and the Convention state unequivocally that this procedure is nothing more than a variant on the penal procedure whose basic principles it must respect."

9. This ruling explicitly takes up in full the terms of Article 40.2(b) of the Convention, concluding that the fundamental rights brought together by our Constitution have to be respected also in criminal proceedings against minors.

10. Nevertheless, explains the Constitutional Court in the same ruling, not all the principles and guarantees laid down in proceedings against adults have to be ensured here in the same terms. This is the case with the principle of publicity, with a view to ensuring the right of minors to privacy as recognised in Article 40 of the Convention.

11. On the other hand the Defender of the People (Ombudsman) issued a report in 1991 on the situation of minors in Spain, both those at social risk and those in conflict with the judicial authorities. In regard to minors who had committed offences it pointed out the need to draw up a new act that would indicate both the types of conduct that were punishable and the measures of punishment to be taken as well as the procedure, lay down the safeguards for those detained and deal with the implementation of the measures.

12. The importance of the judgement in question and the reports of the Ombudsman led to the Government presenting to the Cortes Generales, and to that body adopting, Fundamental Act 4/1992 of 5 June amending the Act governing Competence and Procedure in the Juvenile Courts, which follows the criteria of the present Convention and whose direct connection with it was clearly stated in the judgement of the Constitutional Court of 14 February 1991 already referred to. This Act, which will be commented on in more detail later, was approved provisionally and urgently, leaving questions still pending to be dealt with later.

13. Furthermore, special training has been launched for counsel on the legal aid list for the defence of juvenile delinquents. For the moment this is in operation in the cities of Madrid and Barcelona and will gradually be extended to the rest of the Spanish provinces.

2. The right of children deprived of their family environment to enjoy appropriate care

14. In regard to this right, a notable improvement has been achieved by the reform in parental leave before the birth of a child or before adoption (Act 8/1992 of 30 April amending the procedure for leaves granted by Acts 8/1980 on the Workers' Statute and 30/1984 on Measures to Reform the Civil Service to adopters of a child under 5 years of age) making adoption equivalent to natural filiation as regards benefiting from such leaves, which facilitate contact between a child and its parents.

3. Non-discrimination by reason of sex

15. With a view to implementing the principle of equality between the sexes, criteria that involve preference or inappropriate treatment by reason of sex have been eliminated by Act 11/1990 of 15 October on Reform of the Civil Code, in application of the principle of non-discrimination by reason of sex. Thus the term "conyuge" ("partner") has been substituted for "mujer" ("wife") or "esposa" ("spouse") and the minor children of separated persons can remain in the care of either of the two parents.

4. Nationality

16. The Act amending the Civil Code in regard to nationality (Act 18/1990 of 17 December) allows emancipated minors and children over 14 years of age assisted by their legal representative to seek Spanish nationality.

5. Right to participation

17. The Fundamental Act 1/1990 of 3 October on the General Organization of the Educational System (LOGSE), which contains the educational policy for this decade, and the enabling decrees approved later call for the establishment and development of school councils with permanent representatives of the pupils; these constitute an important advantage, allowing children to exercise their right to participation.

6. Draft bill on children's rights

18. Moreover, a draft bill on children's rights is being prepared which would extend and give practical effect to the rights listed in the Convention and bring together the various texts in force in Spanish legislation that affect children.

19. In short, the draft which is being prepared consists of four main sections:

(a) A first section relating both to the civil rights of juveniles and the way they are exercised, in some cases by the juveniles themselves and in others assisted by a legal representative. So far as possible, it is intended to develop certain topics such as juveniles' legal capacity to enter into contracts and have direct access to justice.

(b) A second section will fill in the gaps and overcome the shortcomings that have been detected since the adoption of Act 21/87 of

11 November amending the Civil Code and the Act on Civil Proceedings in matters of Adoption; reference will be made to this further on.

(c) A third section will deal with the substantive and non-procedural aspects of juvenile justice, and mainly the implementation of the courts' decisions bringing them into line with the Convention in regard to the safeguards that must be provided. This topic is subject to discussion, since there are two options available: on the one hand to carry out an exhaustive regulation of all the measures to be taken, all the aspects of giving them effect and all the safeguards that must be provided, or on the other hand to introduce wider regulation without entering into details. Although it has not been decided which option is to be chosen, it seems that the more appropriate step would be to draft a general text covering the principles of the Beijing Rules since it does not seem reasonable to straight-jacket social reintegration.

(d) A last section will bring together other amendments to legal provisions in force in other spheres.

C. Encouragement and facilitation of participation in and monitoring of Government policies by the public

20. In Spain several processes are going on that will amplify the possibilities of public participation in policies affecting children. There already existed in the Ministry of Social Affairs an established mechanism in the shape of the Consultative Commission of Non-governmental Organizations (NGOs), a body to counsel and advise the administration. Nevertheless, to extend this mechanism to take into account specific major activities, additional facilities for consultation have been made available among which the following may be specially mentioned:

(a) In regard to children, when this present report was being drawn up, a wide range of NGOs working on children's questions, together with major NGOs with more general purposes (Spanish Red Cross, Spanish Caritas) and persons with relevant experience and activity, were consulted.

(b) The same NGOs were consulted throughout the whole process of drawing up the draft Plan of Action on Children's Policies that is to be submitted to the Ministerial Youth and Childhood Commission.

(c) A smaller group of NGOs, and particularly the major parents' associations, were consulted on the awareness-raising campaign called "Listen to them" ("Get to know children").

The administrative management of this participation, as far as programmes covering children up to 14 years of age are concerned, is exercised by the Office for the Juridical Protection of Minors. In matters relating to children between the ages of 14 and 18 years, participation is managed by the Youth Institute. Both bodies are attached to the Ministry of Social Affairs. It should be pointed out that the body for public participation in and monitoring of government policies is made up of:

(d) The Spanish Youth Council, in which most of the youth and children's associations of our country are represented and which is recognised

and supported by the Government. This Council is made up of representatives of the Regional Youth Councils organized in each Autonomous Community and including local representatives together with direct representation for the associations covering the area of the various Autonomous Communities of the State.

21. The Central Administration is collaborating with NGOs to facilitate the implementation of social welfare programmes and practical care for children. The system used is for programmes to be subsidised by the Ministry of Social Affairs, which gives priority in its support to the following subsidizable programmes:

(i) Programmes concerned with organizing children's leisure activities, intended to encourage the integration of children from socially disadvantaged zones;

(ii) Programmes promoting children's membership of associations, with the fundamental objective of encouraging group participation and responsibility on the part of the children;

(iii) Programmes providing alternatives to the institutionalization of juveniles subjected to legal and/or administrative measures. The fundamental objective is to encourage educational programmes for these children with a view to avoiding their internment in centres;

(iv) Programmes concerned with the educational coverage of children aged 0 to 3 years;

(v) Programmes for providing residential care (mini-residences and functional homes) for minors in situations of social difficulty.

22. Through these programmes NGOs' activities are subsidised, whether they are large organizations, such as the Spanish Red Cross and the Spanish Caritas, or more specialised organizations. During 1991 1,177,915,332 pesetas and during 1992 1,435,094,000 pesetas were granted for a total of 67 programmes.

23. In parallel with these programmes the Government has launched through the mass media a campaign for enhancing public awareness of the problems: "Get to know children". NGOs concerned with children and the family are participating in devising and disseminating this programme. The main object of the initiative in its first phase is to put over the idea of the importance for society of overall and specific knowledge of the world of childhood and the fact that the child is a developing being inside a society undergoing continuous change.

24. The campaign is centred basically on the needs of the child in two main directions: the need for protection and, in turn, the need for autonomy: the need for protection is determined by the level of development of the child and the need for autonomy is understood as a need to assign the child an active participatory and creative role in the milieu in which he or she is developing, as an essential condition for growth.

25. The concrete objectives pursued have been the following:

(a) To encourage in adults responsibility for ensuring that children can exercise their rights. It is wished to encourage responsibility without culpabilizing the parents.

(b) Not to make light of the difficulties facing an adult, conditioned by his or her own history and circumstances of life, in trying to understand and satisfy the needs of the child.

(c) To promote the idea that there are no perfect parents: "Every child needs parents good enough for it".

26. Video copies have been made of the television publicity spot used in the campaign and these have been disseminated free of charge for use in public places and training activities. The central slogan of the whole campaign can be summarised in the words: "Listen to them!". The complementary message is "You don't know what you're losing by not listening to your children".

D. Exchange of views with the Committee on the Rights of the Child

27. A working meeting was held between the Head of the Office for the Juridical Protection of Minors, the coordinating editor of the present report and a representative of the Committee in order to receive appropriate guidance and guarantee that the report should be as useful as possible and to ensure that its text reflected the main concerns of the Committee. Furthermore, various contacts have been maintained during the editing of the report.

28. In addition, in editing the report, account has been taken of the framework and guidelines suggested by the Committee with a view to making the reports of all the States Parties clearer and more homogeneous.

E. National and local mechanisms to coordinate children's policies and monitor the application of the Convention

29. In Spain there are some general mechanisms for coordinating social welfare policies and others specifically to coordinate policies referring to children. Five types of mechanism can be distinguished:

1. Coordination between bodies of the central administration: Inter-ministerial Commission for Youth and Childhood

30. Children's policies are developed within the State administration by various ministerial departments, depending on their terms of reference: for instance the Ministry of Education and Science is responsible for the development of the General Act on the Organization of the Educational System, to be discussed in Section B.7.1., in regard to everything that has not been transferred to the Autonomous Communities The Ministry of Health and Consumer Affairs has the task of safeguarding the health of the population, with special attention for child health.

31. The Ministry of Social Affairs is the body of the central State administration responsible for proposing and putting into effect the Government's policy for the protection of children. The Office for Juridical Protection of Minors is the executive centre and is generally responsible for analysing, drawing up, coordinating and following up programmes of activities in regard to juridical and social protection of minors and promoting the rights of the child on the basis of the prior work done in drawing up the Convention. The Ministry of Social Affairs has its own offices in each Autonomous Community to facilitate the tasks of coordination.

32. Coinciding with the preparatory work for the Convention on the Rights of the Child, an Inter-ministerial Commission for Youth and Childhood was established in June 1989 which consists of representatives of the Ministries of:

Social Affairs;

Agriculture, Fisheries and Food;

Relations with Parliament;

Culture;

Foreign Affairs;

Health and Consumer Affairs;

Justice;

Industry, Trade and Tourism;

Education and Science;

Public Administrations;

Labour and Social Security;

The Economy and Finance;

Interior;

Government Spokesman;

Defence;

Public Works and Transport.

This Commission is a collegiate body, attached to the Ministry of Social Affairs, for studying the problems of youth and childhood and proposing programmes and measures that will help to solve those problems, coordinating the activities of the various departments connected with young people and children and drawing up policies that will lead to improvements in their conditions of life.

2. Permanent coordination between the central administration and the autonomous administrations

33. By virtue of the Autonomy Agreements of 28 February 1992 the principles of cooperation (usually referred to as the Autonomy Act) were consolidated and various standing bodies were established or confirmed to ensure coordination between the central administration and the autonomous administrations on various matters. The following bodies have some competence in children's policies, depending on their respective terms of reference:

Sectoral Conference on Social Affairs

Sectoral Conference on Consumer Affairs

Sectoral Conference on Education

Sectoral Conference of the National Drugs Plan

Interterritorial Council of the National Health System

Sectoral Conference on Housing

General Science and Technology Council.

34. Agreement was also reached on establishing a Sectoral Conference on Culture, which up to now has no constituted organ. The Sectoral Conference on Social Affairs brings together the Minister of Social Affairs and counsellors with competence in matters of social care in all the Autonomous Communities. At the more practical level meetings with the heads of offices responsible for matters concerning children are held periodically. Furthermore, there are often meetings of the Technical Commissions, in which technicians from all the Autonomous Communities and the central administration participate to study and coordinate action on specific topics.

3. Specific agreements between the central administration and the autonomous administrations involving local authorities

35. As already explained, the Autonomous Communities, by virtue of their Statutes of Autonomy, have assumed responsibility for social welfare, establishing the public system of social services through their own laws: these services provide a network of basic care and some forms of specialized care, with the fundamental purpose of assuming public responsibility for basic social benefits and guaranteeing them to all citizens in a state of need.

36. Generally speaking, the local authorities concern themselves with primary care, whereas the Autonomous Communities develop the more specialized services, regulating and coordinating activities in their own area.

37. The social service acts of the various Autonomous Communities have set up a similar structure and are clearly based on the principles of social solidarity, the universal provision of benefits, social participation, the integrated treatment of social needs, etc.

38. There are various agreements between the central administration and the autonomous administrations that involve commitments on the part of the local authorities and the development of programmes in their areas. Details of the experimental programmes for the prevention of ill-treatment of children (Section V.B.3) will be given later. Here, primarily because it represents a pillar of the Spanish system of social welfare, a more detailed description will be given of what is known as the Concerted Plan and then of the agreements for collaboration in promoting services for children of both sexes aged 0 to 3 years.

(a) The Concerted Plan for the Development of Basic Social Services of Local Corporations

39. The responsibility and obligation of the local authorities to provide social services and the responsibility of the State and autonomous administrations to provide those authorities with economic and technical cooperation are the basic features of the Concerted Plan for the Development of

Basic Social Services of Local Corporations, through which, by means of an agreement with the Ministry of Social Affairs, the channels of cooperation are laid down. The basic services referred to in the programme agreements included in the Concerted Plan are:

(i) Information and guidance on social rights and resources and specialist counselling on social problems;

(ii) Prevention and the integration of persons and communities in situations of risk or social marginalisation;

(iii) Domiciliary assistance, aimed at providing various types of care for individuals and/or families in their homes when they find themselves in situations where it is impossible to carry out their daily activities or in situations of psycho-familial conflict affecting a family member;

(iv) Lodging and community living for persons who lack an adequate family environment.

40. In the four groups of programmes it is children that represent one of the large communities for which care is intended. The services are provided by a network of basic social service establishments made up of social service centres and reception hostels and centres.

(b) Agreements for collaboration to promote services for infants

41. Furthermore, the Act on the Organization of the General System of Education envisages for the first time infant education from 0 to 6 years, which is a responsibility of the education authorities and is being introduced gradually, beginning with the second cycle (3 to 6 years).

42. The increasing demand for services covering the age group 0 to 3 years has encouraged action by other branches of the administration in addition to those concerned with education, through the establishment of the Programme of Services for Young Children. The purpose of this programme is to cooperate with other public administrations (autonomous and local) to create new care services for young children. The Autonomous Communities assume responsibility for financing the projects of their local corporations, together with the Ministry of Social Affairs, through collaborative agreements. Since 1990 the overall State budget has contained sections devoted to this programme. In 1990 300 million pesetas were allotted, rising to 450 million pesetas in 1991 and to 750 million pesetas in 1992.

43. Priority is given in this programme to:

(i) Services established in suburban quarters that are socially disadvantaged or have been newly created;

(ii) services that contribute to the settlement of the rural population; and

(iii) services established in zones where the population is increasing rapidly.

44. The services that are subsidized in this programme fit into one of the following patterns, with possible variations resulting from the particular characteristics of each zone.

(a) Nursery School: A service with a canteen and open for a minimum of 7 hours a day, five days a week, intended for the children of working fathers or mothers.

(b) Infant group centre or child centre: A service that complements care for the family, with no canteen but providing care for children for at least 3 hours a day and fulfilling an educational role with the family for a minimum of 3 hours a week.

(c) Play school: A multipurpose play centre for children of all ages, with space set aside for those under 3 years of age.

(d) Model of educational support in the rural environment: A service based fundamentally on educational activities for families and boys and girls under 6 years of age in the rural areas, whose geographical and social situation has isolated them. It is provided in their own homes or in premises made available by various branches of the administration. It is a stage preceding the enrolment of children in infant schools, which is gradually being introduced from the age of 3 years upwards and according to the situation of each child.

45. In 1991 5061 places were provided for children aged 0 to 3 years. Nevertheless, an important additional effort needs to be undertaken to meet all the existing needs.

4. Activities of the coordinatory organ of the local authorities

46. The local authorities have available a coordinating body known as the Spanish Federation of Municipalities and Provinces which, in its turn, coordinates with the State administration when carrying out programmes within its terms of reference.

47. Spain has over 8,000 municipalities. During the last few years, the local corporations (town councils and provincial councils) have been carrying out numerous activities directly or indirectly aimed at children. These activities have been carried out in some cases in fulfilment of the obligations laid down in the Act Regulating the Basis of Local Government but quite often responsibilities in regard to children have been delegated to municipal councils by other levels of the administration and it is the councils themselves, when faced with legal and social gaps, that have acted on a de facto basis, taking responsibility for activities not recognised specifically in their terms of reference but which, because of their closeness to the requirements of their people, they have decided to carry out.

48. Municipal activities have been along three main lines:

(i) To promote the adequate socialization required by children at their different stages of development by undertaking for this purpose activities to prevent social difficulties and to foster the wellbeing and integrated development of children;

(ii) To guarantee the protection of children in situations that threaten their special rights as recognised in Spanish legislation;

(iii) Furthermore, as part of a campaign of solidarity with the children of the so-called Third World countries, the councils are participating in activities of decentralised cooperation in development.

43. It should be noted that the Spanish Federation of Municipalities and Provinces, as a body encompassing the majority of Spanish municipalities, decided through its Executive Board to approve and accede to the Dakar Declaration ratified by mayors of towns of various countries of the world and to which the Federation has ensured the accession of many of its member municipalities.

5. Activities of other bodies

50. Finally, reference must be made to other bodies already mentioned above that are closely connected with monitoring the application of the Convention and have jurisdiction over the public administrations:

(i) The Government Procurator's Office, to which, in addition to the duties assigned to it by the Regulating Act, the Civil Code allots responsibility for monitoring and supervising the administrative aspects of protection of children;

(ii) The Defender of the People who, as a High Commissioner of the Cortes Generales appointed by Parliament to defend the rights laid down in Title One of the Constitution, can supervise the administration's activities and report thereon to the Cortes Generales.

F. Measures to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike

51. The commitment to make the principles of the Convention widely known is basically connected with a policy of publication and communication with society. In 1989 a double issue of the review "Menores" ("Juveniles") Nos. 16 and 17, on the rights of the child, issued by the Centre for Juvenile Studies (Ministry of Social Affairs), came out in an edition of 4,000 copies. In that same year the Ministry of Social Affairs also published various pamphlets and posters on the rights of the child. Among the activities developed once the Convention had been approved, the following are worthy of note.

52. The Spanish government took the initiative of organizing a travelling exhibition on the rights of the child as part of the 30th anniversary celebrations of the Declaration of the Rights of the Child, with a view to informing society in general and children in particular of the scope and content of the Declaration. Since its launching, on 1 December 1989, the exhibition has covered the whole of Spain. It was designed so that in every place in which it was shown there was an obligatory reference to the widest possible participation. Both the autonomous and local authorities and the non-governmental organizations on the spot took part in organizing it. In every case children played an active part, not only on the premises where the exhibition was being shown but in parallel events which were organized both in

the schools, particularly in the form of workshops, and in other places where at times what amounted to real local assemblies were held.

53. The exhibition consisted of explanatory panels, easy to understand, on the history of children in various epochs and cultures and on each of the 10 rights. It was supplemented with appropriate photographs and texts with pictograms in colour, information support consisting of posters, pamphlets and panels and a slide display giving the gist of the 10 principles. The exhibition was made more effective by the holding of activity workshops (writing, games and plastic arts) relating to each right, with a view to helping the children taking part to express themselves and communicate. In the same way, a web of cultural activities (conferences, round tables, working groups, etc.) was woven round the exhibition on the subject among the people taking part in the educational campaign (teachers, parents and other professionals) and a large-scale publicity campaign was mounted on the radio and in the press. During its travels the exhibition was visited by about 100,000 persons in 1990 alone, some three quarters of them juveniles. In the school campaign, 513 schools took part, with some 46,000 participants in the various workshops. The work carried out in these was summarized in a publication "Workshops: the Convention on the Rights of the Child", a book consisting of drawings and texts illustrating how the children perceived their own rights. The slide show that was presented at this exhibition was used to make up and disseminate a video to facilitate its presentation and encourage discussions in various public and training contexts. The exhibition continued its travels in 1991 and 1992 and there are commitments to continue it throughout the whole of 1993, thus making it an extremely successful instrument for diffusing knowledge.

54. The Ministry of Social Affairs has subsidized various programmes developed by non-governmental organizations to promote the rights of the child. The Spanish committee of UNICEF and the Spanish Red Cross, with the support of the Ministry of Social Affairs, ran a campaign for promoting the Convention in Spain in 1990 in which informational material on the Convention was distributed to all public-sector schools, thus encouraging schoolwork on the subject.

55. Moreover, workshops to disseminate knowledge of the rights of the child were supported which were organised by the Children's Defence International - Spain under the title of "Know Your Rights". Another example was the State meeting on children, organized by the "Junior Movement" Association at Olmedo (Valladolid) from 16 to 22 July 1990, which 400 children aged 7 to 14 years attended to engage in a democratic discussion of the rights of the child.

56. The Ministry of Social Affairs has also published pamphlets, posters, videos and other promotional materials on subjects connected with the rights of the child; one series of these dealt with to co-education and another with the "Listen to Them" ("Get to Know Children") campaign already referred to in Section V.C. Practical guides for professionals were published, including one for adoptive parents " Getting to Know Them". Mention should also be made of a set of index cards for educationalists to introduce the theme in children's games: "Games - the Convention on the Rights of the Child" (50 games for getting to know the rights of the child").

57. A reduced copy of a poster showing the basic rights of the child has been inserted for publicity in various Spanish journals. This reproduction has appeared regularly in a fortnightly journal intended for professionals working with children under 6 years of age, 1,600 copies of which are distributed free

of charge to centres in all the countries of Latin America thanks to collaboration between the Spanish Ministry of Social Affairs and the Inter-American Children's Institute.

58. During the last two years the Centre for Juvenile Studies attached to the Office for Juridical Protection of Juveniles, in cooperation with the Ministry of Education and Science and the Spanish Red Cross, has organized continuing education activities on the rights of the child, specifically intended for teachers in secondary and vocational schools and carried out in official teacher training centres with a view to ensuring thorough study by professionals of the practical promotion of these rights. A model course for the training of trainers on the rights of the child is to be developed in 1993.

59. Various technical officers belonging to the Office for Juridical Protection of Juveniles and to competent bodies in the various Autonomous Communities have given talks and lectures and participated in various types of event to explain the main aspects of the Convention.

60. The Office has also supported two international congresses on the rights of the child and the Convention, organized by Children's Defence International in Madrid in 1991 and in Granada in 1992.

61. Another activity carried out by the Ministry of Social Affairs took place on the occasion of the International Childhood and Youth Fair (the Juvenalia) held in Madrid from 20 to 30 December 1990, during which an exhibition was organized on the rights of the child and the Convention. It covered 300m^2 and was visited by more than 40,000 persons, who again were able to watch the slide show on the rights of the child and participate in workshops on writing, dancing and play.

G. Measures to make the report on application of the Convention in Spain widely available to the public at large

62. The Ministry of Social Affairs intends to publish this report and disseminate it widely. Non-governmental organizations, particularly those concerned specifically with children, and other branches of the administration will take part in its dissemination.

H. International cooperation and solidarity

63. In the course of a few years, Spain has progressed from being a country receiving cooperative aid to a position when it has begun to organize and collaborate in educational and health programmes in favour of the developing countries, particularly in regard to children and maternal and child care, especially in Latin America and Africa. This reflects a growing commitment to international solidarity, not only on the part of the government but also on the part of the whole Spanish people, as has been shown in the offers of support to displaced persons in former Yugoslavia referred to Section VIII.B and to the increasing response to the appeals of the Spanish Committee of UNICEF, to give only two examples.

64. Spanish cooperation has developed through several channels:

(i) Direct governmental cooperation through bilateral and multilateral agreements;

(ii) Cooperation through municipalities (decentralised cooperation for development);

(iii) Cooperation through non-governmental organizations with the support of the Government.

65. Spanish activities in connection with the Convention are designed to help prevent various problems that affect boys and girls in their places of origin, (anticipating possible displacements and needs for refuge and asylum) and to promote children's wellbeing in general.

66. The Spanish Agency for International Cooperation, through the institutes for cooperation with Latin America and the Arab world, either directly or through agreements with the Ministry of Social Affairs and the Ministry of Health and Consumer Affairs, deploys a wide range of cooperative activities covering health, education and social welfare.

67. The Agency and the Ministry of Social Affairs draw up every year an additional protocol to their agreement and during the last two years have financed the following projects:

School breakfasts (Bolivia);

Programme for strengthening child welfare systems in Latin America, of the Inter-American Children's Institute (Costa Rica, Honduras, El Salvador);

Documentary information project of the International Programme for Information on Children and the Family (Honduras, Bolivia, Chile, El Salvador, Guatemala, Panama, Nicaragua);

Programme of day care centres for the children of industrial workers (Guatemala);

Project for establishing a centre for staff training of the National Juvenile Institute (Venezuela).

68. The Institute for Cooperation with the Arab World is developing the following projects:

Spanish cooperative unit in the Nouakchott polyclinic (Mauritania);

Programme for the control of child malnutrition (Mauritania).

69. Other projects worth mentioning are those included in the Second Plan of Cooperation between Spain and Equatorial Guinea:

Support for the organization of a basic primary health care system;

Support for primary education.

70. Projects and cooperative activities on health in Latin America with child care components are as follows:

(a) Basic health activities:

San Lucas Sacatepequez Health Centre - Guatemala

Regional Children's Office Health Centre, Izabal - Guatemala

Regional Children's Office Health Centre, Chupal - Guatemala

Regional Children's Office Project, Jesus de Otaro - Honduras

Regional Children's Office Project, Lago de Yajoa - Honduras

Garifuna-Lacaya Group Project - Honduras

Regional Children's Office Project, Pech Indians (finalised) - Honduras

Plan of health activities for the Chirripo indigenous population - Costa Rica

Primary care programme (being established) - Panama

Social and health training and education, Bateyes - Dominican Republic

Rehabilitation of hospital units and mobile health centres - Bolivia

Regional Children's Office Project, Iquitos Nauta highway - Peru

Regional Children's Office Project, Imbadura - Ecuador

Training of health promoters, provision of equipment - Paraguay

(b) Vaccination programmes:

National Biologicals Repository - Panama

National Biologicals Repository (in course of implementation) - Honduras

(c) Strengthening of institutions

Training course on primary care - El Salvador

Training course on nursing management - El Salvador

International course on planning and management in health services (sub-regional) - Nicaragua

Support for the institutional development of the health studies research centre - Nicaragua

Training of human resources in health - Dominican Republic

Basic epidemiology course - Paraguay

Epidemiological surveillance project - Costa Rica

Health promotion seminar (regional) - Bolivia

71. Among programmes with a greater socio-educational content, mention may be made of:

Maputo reception centre for street children and classroom-workshops - Mozambique

Education for Andean Children - Bolivia

Care for widows and orphans displaced in areas affected by violence on the Guatemala plateau - Guatemala

Follow-up of a project for rural development in communities affected by violence with special care for widows and orphans in the department of El Quiche - Guatemala

Improvement in the equipment of the Loyola school for children of people with leprosy - Philippines

Development of popular educational services in serious emergency areas - Latin America

Information and training on childhood - El Salvador

Reception home for street children - Dominican Republic

72. Other programmes connected with social and health matters:

Maternal and child health programme - Mozambique

Maternal and child health centre - Bolivia

Teaching without anger - Peru

Special UNICEF programme for assistance and rehabilitation of cholera victims - Latin America

Supplementary care for amputated children and youths - El Salvador

73. As for the Spanish municipalities, the projects supported by town councils under decentralized cooperation for development have been situated mainly in Latin America but also in Africa and Asia. This decentralized cooperation, which is frequently strengthened by twinning between Spanish civic authorities and those in the areas mentioned, has been growing during the last decade. In general, the projects are carried out in collaboration with the Autonomous Communities and non-governmental organizations. According to a survey made by the Spanish Federation of Municipalities and Provinces some 40% of local authorities with more than 20,000 inhabitants have already established their own cooperation programmes or programmes in collaboration with other administrations.

74. Although the data available are somewhat difficult to break down precisely by beneficiary and content, it has been found that as regards specific collaboration for the benefit of children during the years 1989-1991, various civic authorities participated in: the construction of child day care centres, nursery schools and schools for infants; the construction of play parks for children; programmes of child nutrition or funds to provide milk for babies; holiday exchanges; subsidies for institutions such as the Red Cross, Amnesty International or Manos Unidas, donations to UNICEF, etc. Lastly, programmes and aid on a notably wide and generalized scale have been concerned with Saharan

children, taking the form of camps, holidays and the collection and despatch of health and educational materials.

75. It must be mentioned that cooperation in other sectors, such as those of health and education, and with non-governmental organizations, also involves projects that directly or indirectly have important repercussions for children but are not listed as specifically to do with children. Examples connected with health are projects for the rehabilitation of hospitals and health centres and other health cooperation projects intended for the training of staff and/or the maintenance of medical equipment and the despatch of pharmaceutical products; projects for improving nutrition; campaigns on cholera prevention and disease control; and programmes of training in support of maternal and child health.

76. The Ministry of Foreign Affairs convenes an annual meeting to discuss subsidies for NGOs' international cooperation projects, whose budget is 18% of the proceeds of personal income tax. In 1992 the figure was 424,260,000 pesetas, to which must be added contributions to international bodies, such as 275 million pesetas to UNICEF in 1992.

77. International solidarity also finds expression in inviting foreign children to Spain and exchanging experience, an activity which has been developed with government support mainly by three non-governmental organizations: the Spanish Committee for UNICEF, the Spanish sections of Children's Defence International and the Family, Leisure and Nature Foundation. Mention may be made of:

(a) The Camp for Peace in the Mediterranean held at Guardamar del Segura (Alicante) from 18 to 30 August 1991, in which 180 boys and girls aged 10 to 14 years from 18 Mediterranean countries, including Portugal, took part; it was organized by the Family, Leisure and Nature Foundation and the Office for Juridical Protection of Juveniles gave a grant of 15,405,000 pesetas.

(b) The "Jewish and Palestinian children in Spain" programme, which took place in July 1991: as a result of the Gulf War, the idea arose of a meeting in Spain of 40 Jewish and Palestinian children between 11 and 13 years of age, with a view to favouring coexistence between children who have suffered from the consequences of war. It was held in Spain from 18 to 30 July 1991 and managed by the Children's Defence International, Spain.

II. DEFINITION OF "CHILD"

78. At eighteen years of age a child attains his or her civil majority, thus acquiring in full the exercise of civil rights and especially the right to vote.

79. In Spain there is a procedure called "emancipation" of persons over 16 years of age. As a general rule emancipation can take place by permission of the persons exercising parental authority and with the consent of the juvenile himself (Art. 317 of the Civil Code), by a child over 16 years of age living independently with the consent of the parents (Art. 319), or by permission of the courts at the request of the juvenile concerned. Exceptionally emancipation can take place through marriage, as is described in detail further on (Art. 316). Emancipation allows the juvenile to dispose of his person and property as if he had attained his majority and to appear by himself in judicial proceedings. Nevertheless, the child requires the consent of his or her parents or guardian to accept money or a loan or to incur a lien on or dispose of landed property, commercial or industrial establishments or objects of especial value.

80. From 16 years of age onwards, even though not emancipated, juveniles may:

enter into a contract to work with the consent of their parents if they do not live independently;

dispose of their earnings;

apply for a driving licence for motorcycles of more than 49cc and up to 75cc;

children over 14 years of age may drive mopeds of less than 49cc;

carry out acts of ordinary administration of property they have acquired with their work and diligence.

81. From the age of 14 years onwards a child has the legal capacity to make a will and request nationality (assisted by a legal representative) and is entitled to testify. The child may ask the courts for permission to enter into matrimony and if a marriage does take place, will be emancipated. Permission is required to appear in judicial proceedings for a juvenile who is not emancipated in cases in which he or she is not authorised ex lege to appear or does not have the permission of the father or mother exercising parental authority. This permission is granted when the parents are absent and are not expected to return or when they refuse to represent their child in the proceedings. Permission is not required when the juvenile is engaged in litigation with his or her father or mother.

82. The age of majority for penal purposes is set at 16 years, that being the limit of criminal responsibility. Nevertheless an age of 16 to 18 years is considered to be an attenuating circumstance in cases of criminal liability. This implies favourable penal treatment of juvenile delinquency in two types of case:

(a) obliging the court to lower the penalty by one or two degrees, at its discretion;

(b) authorizing the substitution for the sentence of detention in a young offenders' establishment in which some of these offenders

serve their sentence outside the prison system proper (Art. 65 of the Criminal Code).

From 16 years of age offenders may serve out their sentences in prison, although special prison sections and centres for young people between 16 and 21 years of age are being considered. There is a movement among jurists and professionals in favour of raising the age of criminal responsibility to 18 years. At the present time the penal treatment of young people from 16 to 18 years of age is the subject of discussion in Parliament in connection with debates on the draft new criminal code.

83. From 12 years of age until 16 there is a special procedure for applying measures of a fundamentally educational character to juveniles who have infringed the criminal law. This new procedure has been regulated by Fundamental Act 14/1991 inspired by the principles of the Convention set forth in Article 40 (for more details see Section VIII).

84. Obligatory schooling lasts from 6 to 16 years of age, having been made longer by the passing of Fundamental Act 1/1990 of 3 October on the General Organization of the Educational System. Before, it lasted from the age of 6 years to the age of 14.

85. In this way the end of compulsory schooling coincides with the minimum age at which a child may start work, which under Spanish legislation (Act 8/1980 of 10 March approving the Workers' Statute) is 16 years.

86. Workers under 18 years of age are forbidden to do night work or work declared by the government to be unhealthy, heavy, harmful or dangerous, either for health or for vocational and humane education. Persons under 18 years of age are also forbidden to work overtime.

87. There exists a system of contracts for training, under which a worker undertakes to provide his labour and to receive training at the same time, applicable to persons from 16 to 20 years of age, thus encouraging access to in-service vocational training.

88. Military service may begin voluntarily at 17 years of age. Nevertheless the use of firearms is prohibited before the age of 18. This standard is in accordance with the declaration made by Spain when ratifying the Convention, which stated: "Spain, desiring to express its solidarity with those States and humanitarian organizations which have expressed their disagreement with the content of paragraphs 2 and 3 of Article 38 of the Convention, also wishes to express its disagreement with the age limit fixed in those paragraphs and to state that this seems inadequate, since it permits recruitment and participation in armed conflicts of children from the age of 15 years.

89. Children under 16 years of age are forbidden to enter establishments serving alcoholic drinks and the sale of such drinks to children under 16 is also forbidden, as is the sale of tobacco. Nevertheless, as will be seen in Section VI A, the attitude of Spanish society is extremely tolerant and educational and institutional practices persist that do not conform to the rule.

90. In the same way, mention should be made of the Act on the Juridical Status of Public Administrations and Common Administrative Procedure published in the Boletin Oficial del Estado of 27 November 1992, which expressly recognises that juveniles have the right to enter into proceedings:

> "Article 30. In addition to persons who may do so in accordance with the principles of civil law, minors shall have the legal capacity to enter into proceedings before public administrations, for the exercise and defence of those of their rights and interests whose exercise is permitted by the juridical and administrative regulations, without the assistance of the person exercising parental authority, guardianship or curatorship. Excepted from this are legally incompetent juveniles when the extent of their incompetence affects the exercise and defence of the rights and interests concerned."

Furthermore, it should also be mentioned that the Fundamental Act for Civil Protection of the Right to Honour, Personal and Family Privacy and Reputation of 5 May 1982 expressly provides:

> "Article 3. The consent of minors and the legally incompetent shall be given by the persons themselves if they are sufficiently mature, in accordance with the civil law. In the remainder of cases consent will have to be granted in writing by their legal representative, who shall be obliged to give prior notice of the proposed consent to the Government Procurator's Office. If within 8 days the Government Procurator should oppose this, the courts shall decide on the matter".

91. Various Spanish social establishments and a good number of administrative bodies reserve the term "childhood" for the period between birth and 14 years of age, while the period from 15 to 18 years of age may be termed "adolescence", although it falls within the wider concept of "youth". In the Ministry of Social Affairs the responsibility for children from birth to 14 years of age lies with the Office for the Juridical Protection of Juveniles, whereas responsibility for children aged 15 to 18 years lies with the Youth Institute.

92. A list of the ages under Spanish legislation when certain activities can be carried out, is given in Annex 1.*

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* This can be consulted in the Archives of the Centre for Human Rights.

III. COMPLIANCE WITH THE GENERAL PRINCIPLES OF THE CONVENTION

93. In addition to the Convention, the main agreements in relation to minors which Spain has ratified are as follows:

The 1902 Hague Convention on the Protection of Minors:

The European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Luxembourg, 20 May 1980);

Convention on the Civil Aspects of International Child Abduction (Convention No. XXVIII of the Hague Conference, 25 October 1980);

Convention concerning the powers of authorities and the law applicable in respect to the protection of minors (The Hague, 5 October 1961);

Convention No. VI of the International Commission on Civil Status concerning determination of maternal filiation of children born out of wedlock (Brussels, 12 September 1962);

Convention on the extension of the competence of authorities qualified to receive acknowledgements of children born out of wedlock (Rome, 14 September 1961);

Convention on the dispatch of a certificate of competence to marry (Munich, 5 September 1980);

Convention on the dispatch of a certificate of diversity of names (The Hague, 8 September 1982);

Convention on the law applicable to maintenance obligations in respect of children (The Hague, 24 October 1956);

Convention No. IX of the Hague Conference on recognition and execution of decisions in regard to maintenance obligations in respect of children (The Hague, 15 April 1958);

Convention No. XXIV of the Hague Conference on the Law Applicable to Maintenance Obligations (The Hague, 2 October 1973);

Convention No. XXIII of the Hague Conference on the Recognition and Enforcement of Decisions relating to Maintenance Obligations (The Hague, 2 October 1973).

94. Furthermore, before an analysis is made of individual principles enshrined in the Convention, it is worth mentioning two resolutions of the Parliament of the Autonomous Community of Catalonia giving a programmatical list of the principles. The first is Resolution 37/1, inspired by the declaration of 1959, which contains 12 principles on which all child-related legislation and social activity in Catalonia must be based. This resolution was amended by Act 194/III, which brought it up to date and adapted it to the new expression of the rights of the child in the Convention. Resolution 194/III was adopted on 7 March 1991 and contains 17 principles which were later reproduced in their entirety in the first additional operative paragraph of Catalonian Act 37/1991

of 30 December on measures for the protection of children deprived of amparo and on adoption.

A. Measures regarding the principle of non-discrimination

95. The Constitution, in its Article 14, establishes the principle of equality before the law, without any discrimination on account of birth, race, sex, religion, opinion or any other condition of personal or social circumstance. This principle is strengthened by the guarantee of juridical protection of the fundamental rights of the person governed by Act 62/78 of 26 December. In addition, it characterizes as a criminal offence discrimination practised by a person responsible for a public service (Art. 165 of the Criminal Code), making the penalty higher in the case of a public servant (Art. 181 of the Criminal Code).

96. In line with this principle, various reforms have been introduced, such as Act 11/1981 of 13 May, amending filiation, parental authority and the economic aspects of marriage and making children equal before the law. This is commented on later in the section on parental responsibility. There is also the reform carried out by Act 11/1990 of 15 October, amending the Civil Code and eliminating expressions which enshrine discrimination on account of sex; in particular the terms "mujer" ("wife") and "esposa" ("spouse") are replaced by "conyuge" ("partner") and a new wording is given to Article 159 of the Civil Code. Before this amendment, when parents separated, children under 7 years of age remained in the care of the mother unless the court provided otherwise for special reasons. As a result of the amendment the court will decide in the interests of the children to which of the parents custody is given.

97. As regards non-discrimination on account of sex, the Ministry of Social Affairs developed its first Plan for Equality of Opportunity for Women for the period 1988-1990 and has launched a second plan for the period 1993 to 1995. Among the activities contained in the first plan, mention may be made of those concerned with school education (see Section VII.A.6) and in particular:

Combating sexist stereotypes in teaching materials and curricula;

Encouraging the exchange of activities in the teaching staff through enhanced awareness and initial and continuous training;

Guaranteeing equality of opportunities for access to every type of training.

98. In 1990 the Ministries of Education and Science and of Social Affairs signed an agreement for collaboration to give effect to non-sexist education in educational processes. This agreement, which is renewed annually, sets forth activities designed to meet the objectives set in the Plans for Equality of Opportunity for Women that both bodies must develop in collaboration and which are evaluated by a joint follow-up commission set up for the purpose.

99. Another activity of wider scope was the encouragement in the mass media of a non-discriminatory image of women.

100. The projects and objectives included in the second Plan for Equality of Opportunity for Women, 1993-1995, approved by the Spanish Government and managed by the Ministry of Social Affairs, are:

1.1 To publicize equality-promoting legislation, and particularly the latest provisions approved, which develop the principle of equality, and to make the bodies charged with applying the laws aware of the principle;

1.2 To make the necessary legal changes to complete the development of the principle of equality contained in Article 14 of the Constitution;

1.3 To introduce amendments to legislation to make equality of opportunity for women possible;

2.1 To bring the established curriculum into line with a concept of education that accords with equality of opportunity for women and men and eliminates the androcentric characteristics of educational practices and content;

2.2 To encourage the production of teaching materials that favour equality of opportunity for women and men;

2.3 To heighten awareness among, and to train teaching staff, so that once sexist stereotypes and prejudices have been singled out for attention, they work for effective implementation of equality of opportunity between women and men in education;

2.4 To continue the activities launched with the various support services for schools (inspection, guidance, evaluation), to promote equality of opportunities between the sexes and diversification of professional options;

2.5 To promote studies and research connected with equality of opportunity between the sexes and foster dissemination of the results;

2.6 To develop training programmes for adult women, suited to their needs and interests, so as to reduce illiteracy, promote their integration in the culture and facilitate their entry or re-entry into the labour force;

2.7 To promote the participation of girls and women in sporting activities, to encourage alternative non-discriminatory sports and increase the presence of women in decision-taking posts in the world of sport;

2.8 To develop positive activities promoting the balanced participation of women and men in the sphere of education;

2.9 To maintain and strengthen the mechanisms for coordination between institutions and with non-governmental organisations to promote coeducation;

3.1 To keep women informed in order to facilitate the seeking of work and the diversification of professional options;

3.2 To provide balanced and innovative training for women;

3.3 To support women in seeking employment;

3.4 To facilitate vocational experience for women;

3.5 To support stable employment for women;

3.6 To encourage women's entrepreneurial activity;

3.7 To extend through employment the careers open to women and enhance their quality of life;

3.8 To encourage positive action at the workplace;

3.9 To promote institutional coordination and collaboration;

4.1 To eliminate the discriminatory image of women;

4.2 To strengthen the presence of women in the mass media and in Spanish public life;

4.3 To avoid publicity on television, radio and hoardings, or in newspapers, etc. using the image of women or being directed at them from their traditional roles;

5.1 To achieve a more equitable distribution of family responsibilities between men and women;

5.2 To study the processes of learning and socialization of boys and girls within the family;

6.1 To encourage women to join associations;

6.2 To carry out pilot experiments in town halls that will cater for people's needs in the design of housing, with special reference to the accessibility of services and the saving of time;

6.3 To increase women's participation in political activities;

7.1 To encourage the access of women to bodies in which they are under-represented;

7.2 To increase the number of women in the higher echelons of the administration;

7.3 To increase the number of women in management posts in public enterprises;

7.4 To increase the number of women in management posts in other enterprises;

8.1 To interest the Interterritorial Council of the National Health System in providing a procedure enabling the Women's Institute to collaborate on topics concerned with women's health;

8.2 To promote programmes for the prevention of adolescent pregnancies;
8.3 To promote cancer control programmes among the female population;

8.4 To prevent infection with the human immuno-deficiency virus (HIV) among women;

8.5 To introduce a new approach to the menopause among the population in general and among health and social service professionals in particular;

8.6 To study the health problems connected with women's working activities;

8.7 To develop programmes for battered and sexually attacked women;

9.1 Through studies and participation in various fora where discussions are held and decisions taken on policies for marginalized groups, to promote measures that enable the most disadvantaged groups of women to have access to employment, health, education and culture;

9.2 To heighten awareness among men and women social service professionals of the problems of women in situations of special need, and train them so that they take into account those special needs and promote appropriate programmes;

9.3 To promote publicity programmes with a view to facilitating the social integration of women affected by marginalization processes;

9.4 To make public opinion better aware of the shared responsibility of the whole of society for phenomena of social exclusion;

10.1 To encourage Spanish participation in supranational and international bodies and also to promote bilateral and multilateral contacts and relationships with States;

10.2 To strengthen and extend the policy of cooperation with the countries of Latin America and to open up means of cooperation with other developing countries, especially those in North Africa.

101. Other measures to combat social discrimination are those relating to the social integration of handicapped persons (see Section VI.C.3), children facing difficulties in the educational system (see Sections VII.A.2 to VII.A.5), ethnic minorities (see Sections VII.A.5) and working youths (see Section VIII.E) In Sections V.B and VIII of this report many other situations are described regarding which measures have been taken.

B. Measures related to the principle of the best interests of the child

102. The main legal text giving concrete expression to the interests of the child is the Civil Code, together with special regulations referred to in this report. Book 1 of the Civil Code, which deals with persons, contains various precepts expressly or tacitly relating to the interests of minors.

103. Thus, any agreement on separation or divorce must expressly mention the person in whose care the children subject to the parental authority of both parents are to be left and specify who will exercise parental authority and what the arrangements are for visits, communications and holidays of the children with the parent who does not live with them. This agreement must be approved by the courts. If it proves harmful to the minor or if there is no agreement, the

court must decide on the necessary measures. Similarly, it is stipulated that judicial measures on the care and education of children will be adopted for their benefit and they will be given a hearing if they are of mature enough judgement and in every case if they are 12 years old or more.

104. In matters of filiation also, the interests of the child are regarded as paramount, to the extent that Spanish legislation does not distinguish filiation in wedlock and filiation out of wedlock and likewise puts natural and adoptive filiation on an equal footing, granting the same legal rights in all these cases.

C. Measures connected with the right to life, survival and development

105. Since this is a constitutional right, it forms part of the set of measures regulating concrete rights, such as the right to health care, and of the Civil Code which lists the functional components of parental authority.

D. Measures connected with respect for the views of the child

106. This principle has many repercussions in Spanish legislation:

(a) In the exercise of parental functions "children must always be given a hearing before decisions affecting them are adopted" (Art. 154 of the Civil Code);

(b) Any request for the courts to authorize the father or mother to dispose of the property of a minor must be signed by the child if over 12 years of age (Art. 2012 of the Act on Civil Proceedings);

(c) Judicial measures on the care and education of children in cases of nullity, separation or divorce must be adopted after giving the children a hearing if they have sufficient judgement and in every case if they are over 12 years of age (Art. 92 of the Civil Code);

(d) A child over 12 years of age must give consent to be received in a family or adopted (Art. 173 and 177 of the Civil Code);

(e) If of sufficient judgement, a child under 12 years of age must be given hearing by the court during the adoption process (Art. 177 of the Civil Code);

(f) A minor can directly request the court to cease fosterage (Article 1828 of the Act on Civil Proceedings).

107. As for access to justice, Spaniards are legally entitled to be a party to proceedings from birth onwards, but a non-emancipated minor cannot appear by himself or herself in judicial proceedings. To take appropriate action before the court a minor must be legally represented. The parents who exercise parental authority have the right to legally represent their non-emancipated minor children. Nevertheless, a minor can be authorised by the court to appear in judicial proceedings, if it is not already authorised by the law, when its parents are absent (and their domicile is unknown) or if they refuse to represent the child in the proceedings. It must be borne in mind that a minor does not have to obtain permission to litigate against father or mother (Art. 1994 to 1998 of the Act on Civil Proceedings). The Basic Statutes of the Government Procurator's Office (Act 50/198 of 30 December) stipulate that the

function of that institution is "to assume responsibility for or promote representation or defence in judicial or extrajudicial proceedings and to act as legal representative for those who cannot act for themselves".

108. Art. 158 of the Civil Code reads:

"The court shall state, at the request of the child itself, of either of the parents or of the Government Procurator's Office:

1. the precautionary measures appropriate for ensuring the payment of maintenance in cases where the parents do not perform that duty;

2. appropriate provisions to prevent children being subjected to harmful disturbance when the person exercising guardianship changes;

3. in general any other provisions that are considered appropriate with a view to avoiding danger for or preventing damage to the child".

109. In school life also, allowance is made for the views of the child. Thus, minors have their representatives in the management bodies of schools (school councils) from the second cycle of basic education onwards, i.e. from the age of 12 (Fundamental Act 8/1985 of 3 July, governing the Right to Education). Similarly, pupils may form associations. Pupils' associations, among other functions, will:

I. Express the views of the pupils on everything that affects their situation at school;

II. Promote the pupils' participation in the school's collegiate bodies;

110. In the procedure governed by Fundamental Act 4/92 on Juvenile Offenders, account is taken of the views of the juvenile and he or she is given a channel of expression. Thus the juvenile may make a statement but may also be informed of his or her right not to do so. In another part of the procedure, if it agrees with the measure requested by the Government Procurator's Office, the court will issue an order stating the fact. The case may be suspended if the juvenile and those who have suffered from the offence mutually agree to accept redress other than through the courts.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality

111. In Spanish law the birth of a person determines his or her civil personality, which is only ended by death. The birth of a child is recorded in the register office together with the name of the father and mother and is designated by a first name and the surnames of the father and mother, which the law protects against everyone. Some professionals and experts have recommended that measures should be taken on the part of the competent bodies to correctly identify the newborn.

112. As for nationality, in addition to children who have Spanish nationality because their parents are Spanish, the part of the nationality law quoted envisages a series of possibilities for foreign children to acquire Spanish nationality, for example, when both parents have no nationality, when a child has been born in Spain of unknown parents or when a foreign child has been under the parental authority or guardianship of a Spanish person.

113. It must be emphasised furthermore that an emancipated child or one who has attained the age of fourteen years may request nationality, although in this second case the child will have to be assisted by a legal representative.

B. Preservation of identity

114. As already said, the law guarantees a child's right to identity and moreover provides means of preserving it. Thus, Spanish law envisages a special procedure for change of forename and surnames, which must be authorised in some cases by the Ministry of Justice and in others by an ordinary court.

115. In addition to this, the Criminal Code characterizes as offences imposture regarding a birth, the substitution of one child for another and the usurpation of civil status.

C. Freedom of expression

116. Freedom of expression in Spain is a fundamental right recognised in Article 20 of the Spanish Constitution. This freedom is recognised and legally protected and its infringement is subject to criminal sanction. It includes freedom:

(a) to express and disseminate thoughts and opinions;

(b) to create literary, artistic and other works;

(c) to impart instruction (academic freedom);

(d) to freely receive information, which must not be restricted by any type of previous censorship and is limited only in respect to the rights of third parties and particularly to the protection of youth and childhood. In furtherance of this restriction a Royal Decree 1189/82 of 4 June was promulgated to regulate certain activities inappropriate or dangerous for young persons and children and the Criminal Code was amended by Fundamental Act 5/1988 of 9 June.

117. In schools, Article 7.2(a) of the Fundamental Act on the Right to Education stipulates that it is one purpose of pupils' associations: "(a) to express the pupils' views on everything affecting their situation in the schools". Article 2.3 of the Fundamental Law on the Organization of the Educational System lays down as principles of that system: "(d) the development of the spirit of criticism; (e) the encouragement of habits of democratic behaviour".

118. It should be mentioned that some Autonomous Communities (for example, Castile-La Mancha) and some municipal councils have conducted an experiment of "child assemblies" to encourage free participation and expression by boys and girls, following democratic procedures like those used by adults, on topics in their local area that interest them. In many cases the organization of these meetings has resulted from the travelling exhibition mentioned in Section I.F. In general, the process of developing such assemblies was launched in school classrooms on the basis of general discussions and election of pupils' representatives to hold local assemblies. It is in the town halls that such assemblies have generally been held with a view to reproducing as faithfully as possible the sessions ordinarily held there. Although the meetings have been held by children they have elected mayors, secretaries or parliamentary groups and published records.

119. The ultimate purpose of the children's assemblies has been summarized in the following main elements:

(a) the actual holding of the whole event in the place in which the child is developing: the child's own school, own town hall and own town;

(b) the drawing of concrete conclusions on how the children actually perceive the realities surrounding them;

(c) the children's democratic election of their own representatives;

(d) the children's opportunity to meet and express their own wishes, opinions and needs;

(e) the opportunity for children to get to know the particular formal and political structures in which this type of meeting takes place (democratic voting, the election of officers, the drawing-up of rosters, the reading of proposals, the issuing of records, etc.).

120. In the case of Castile-La Mancha some 60,000 schoolchildren participated from a total of 171 schools in 64 different municipalities. They elected 1,309 representatives, who in turn elected 84 regional deputies. The regional press gave ample coverage to the whole process.

D. Access to appropriate information

121. In Spain, in addition to the local information campaigns on the rights of the child already mentioned in Section I.7 other active steps have been taken to enable boys and girls in general to have access to information of interest according to their ages. The majority have public support and have been promoted by public bodies or by non-governmental organizations. The services based on non-governmental organizations form part of the network being developed by the Spanish Youth Council.

122. It should be emphasised that the Youth Institute (INJUVE) dependent on the Ministry of Social Affairs is developing an information programme and cooperating continuously with the youth information centres of the Autonomous Communities and those dependent on local councils and youth associations.

123. The Institute is at present running and making available to young people a series of information data-banks on services and opportunities for children and young people, although a large part of this information is also usable by other sectors of the population, whose needs often coincide with those of children and young people.

124. The available information is collected essentially in the following data-banks:

(a) A database for ephemeral information. This brings together announcements of interest for a limited time and connected with the following themes: teaching; activities; publications; courses; scholarships and bursaries; prizes; work; examinations. This information is updated daily and sent to various information centres, broadcasting stations, associations. etc.

(b) A database for long-lasting information. This is intended to offer a wide-ranging detailed review of the services, resources and information on opportunities available for young people and their rights and obligations as citizens. This database is divided into 13 sections: announcements; education; work; culture; leisure; sport; youth programmes; rights and duties; information; participation; health; society; general matters.

(c) A directory. At the moment there are available entries on roughly 15,000 bodies, organizations, public services, etc., which to a greater or lesser degree are connected with youth. Its links with the two previous sections are therefore obvious.

(d) A EUROYOUTH database. In coordination with youth bodies in France, Greece and Portugal a joint database is now being set up which will be the launching pad for a future European youth database, providing support for communication, interchanges and mobility between European young people. Although not yet entirely decided, in the future it is envisaged that other countries neighbouring on Spain will be brought in.

(e) CINDOC database. This is somewhat similar in purpose to what has been described for the EUROYOUTH database. This project covers all the Latin American countries together with Spain and it is proposed to use it to exchange information between all the centres that make up the network.

(f) "Spain for Young Visitors" Guide. So far two editions of this publication have appeared. It is expected that the third will come out during 1993. Nevertheless, and given the connection existing between the various European centres making up the ERYICA network, preliminary work has begun to computerize the contents of the guide so that the necessary information can be exchanged through magnetic supports (diskettes). The information collected in this Guide is divided into the following sections: description of the country;

organization of travel; practical information; a list of useful books; employment; studies; leisure; useful addresses. A re-issue of the Youth Guide, with similar information but intended for Spanish young people, is envisaged.

125. In another connection it should be mentioned that the Autonomous Communities of Catalonia and the Balearics have each established child hotlines to receive administrative queries and complaints. All the Autonomous Communities have social emergency hotlines available.

126. There are some legal restrictions on information aimed at minors in Spain. Thus the General Act on Advertising makes illegal publicity that infringes the dignity of the person or is detrimental to the values and rights laid down in the Constitution, particularly as regards children, youths and women, and furthermore stipulates that certain products and activities (health products, tobacco, beverages, betting, games of chance, etc.) shall be regulated by special rules or subject to prior administrative authorization. Thus publicity for tobacco and alcoholic beverages can only be broadcast on programmes after 21.30 in the evening and never in programmes destined basically for a child audience or specifically intended for minors.

127. Furthermore, the regulations on the acceptance of advertising on public television channels contain specific provisions for protecting children, such as not allowing children to be urged to buy a particular product or not allowing children to be shown in dangerous or violent situations, with special reference to publicity for toys. Nevertheless violent scenes are common in many films shown on Spanish television channels at times when children see them.

E. Freedom of thought, conscience, religion, association and assembly

128. These are constitutionally recognised rights. There are provisions in Spanish law enabling minors to exercise those rights in particular environments, such as, for example, the schools.

1. Freedom of thought, conscience and religion

129. There is no State religion in Spain. The public authorities, bearing in mind the religious beliefs of Spanish society, maintain due cooperative relations with the Catholic Church and the other churches. Within this framework agreements have been made with various churches with a view to guaranteeing the rights of citizens to freedom of religion and belief.

130. As a guarantee of the fundamental right to religious and church freedom, a Fundamental Act on Religious Freedom came into force in 1980, which grants all persons inter alia the right to profess religious beliefs, to carry out rites, and to receive religious assistance from their own church, to receive and impart teaching and information of every kind on religion, to meet or demonstrate publicly for religious purposes and to join associations to develop their religious activities on a community basis.

131. The Fundamental Act on the Right to Education guarantees the right to respect for liberty of conscience and for the religious and moral convictions of a child. In accordance with this right schools have taken particular measures to enable children to choose between the teaching of religion and the teaching of ethics.

132. Royal Decree 1543 of 28 October 1988, which brings together the rights and duties of pupils in Article 6 Section c, envisages the right to receive religious and moral training in accordance with the child's own convictions. At the present moment, in the bill on children's rights mentioned in Section I.B discussion and thought are being given to the contradictions involved in the exercise of this right together with the right of association and the limits to be applied to the exercise of those rights by children. The clearest example is that of sects, membership of which parents can oppose or support contrary to the opinion of the child concerned.

133. Education in ethics, envisaged as a crosslinking subject in the educational system, is an opportunity for teaching children and adolescents how to exercise their rights and duties.

2. Rights of association and assembly

134. Royal Decree 397/1988 of 22 April, regulates the registration of children's and youth associations, which are those with members between the ages of 14 years and 29. Furthermore, associations of university students are envisaged in Article 27.5 of Fundamental Act 11/1983 of 25 August on University Reform, and the Act on the Right to Education already quoted in its Article 7, put into effect by Royal Decree 1532/1986 of 11 July, regulates associations of pupils and grants the right of association to all pupils in the top cycle of the basic general education system (from the age of 12 years onwards).

F. Protection of privacy

135. General speaking, the right to privacy and the protection of private life are guaranteed by Spanish legislation and protected by the courts.

136. Fundamental Act 1/1982 of 5 May regulates the protection of the right to honour, personal and family privacy and to personal reputation. To legitimize any interference in those rights the person enjoying them must grant his or her express consent beforehand. The Act provides that in the case of minors they shall be the ones to grant that consent provided that they are mature enough to do so. Otherwise consent must be obtained from their legal representative. To guarantee that the rights of minors are adequately protected these legal representatives must previously notify the Office of the Government Procurator. If the Government Procurator opposes the granting of consent within so many days, it will be for the courts to decide. Under this Act the Government Procurator's Office has published instructions for all procurators throughout the country, laying down standards of procedure and criteria for meeting them.

137. Furthermore, to meet the stipulation contained in Article 18.4 of the Constitution enjoining the legislator to restrict the use of computers so as to guarantee the citizens' honour and personal and family privacy and the legitimate exercise of their rights, Fundamental Act 5/1992 of 29 October has been adopted, regulating the automated processing of data of a personal nature. This Act is aimed at establishing precautionary mechanisms to avoid violations of privacy that could result from processing the data contained in databases and other instruments of data collection.

138. The right to privacy in relation to children and from the civil point of view is legally guaranteed. Act 21/87 of 11 November amending the Civil Code and the Act on Civil Proceedings concerning Adoption and Fosterage, introduced the obligation that all proceedings concerned either with adoption of a child or

fosterage must be carried out with appropriate caution, in particular so as to avoid the original family knowing the names of the adoptive or foster family.

139. Furthermore, Act 4/1992 also guarantees the right to privacy of an alleged juvenile delinquent, on the one hand by allowing the court in the interest of the minor to hold sessions in private and on the other by stipulating that in no case shall the mass media obtain or disseminate pictures of the minor or data that would enable his or her identification.

G. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

140. Apart from the aspects affecting fundamental rights, the Criminal Code punishes ill-treatment and the use of children for begging, as well as violence within the family, and Act 4/1992 already quoted lists the measures that can be used to punish offences committed by minors, all such measures being of a fundamentally educational character.

1. Ill-treatment of children in the Criminal Code

141. Various forms of ill-treatment of children are punished under the Criminal Code in force.

(a) As offences:

Infanticide (Art. 410): the mother who, to hide her shame, kills a newborn child or grandparents who do so to conceal the mother's dishonour are punished. This special provision means that the offence is more lightly punished than parricide. The draft criminal code at present under discussion does not contain this offence, which is included in the general offences of homicide or murder, depending on the circumstances.

Bodily injury (Art. 425): a person who habitually and deliberately applies physical violence ... to children under his or her parental authority or to a minor under his or her guardianship or wardship shall be punished.

Violation (Art. 429): This article characterizes as violation all cases of carnal knowledge when the victim is less than 12 years old, including cases where force or intimidation has not been used or the victim made unconscious or advantage taken of the victim being of unsound mind.

Rape (Arts. 434 and 435): This offence consists in carnal knowledge of a person under 18 years of age and over 12 years of age, taking advantage of superiority. The maximum penalty is inflicted when the author of the rape is a parent or sibling of the victim. Also considered as rape is a case when the victim is between 12 and 16 years of age and deceit has been used to obtain carnal knowledge.

Sexual attacks: Other violent behaviour not contained in the previous sections.

Abduction: with a view to having sexual knowledge of a child under 12 years of age, whether the child consents or not.

Corruption of minors (Art. 452(b) b) punishes anyone who encourages, facilitates, induces or maintains a situation of corruption of minors, an offence being deemed to have been committed whether the minors who prostitute themselves have given their consent or not.

Abandonment of family and children (Art. 487): failure to fulfil legal duties of assistance inherent in parental authority or guardianship when there is deliberate abandonment of the home or if the cause is disorderly conduct (in other cases it is considered a misdemeanour).

Child begging (Art. 489): the utilization or lending of minors under 16 years of age to practise begging. The sentence is heavier if there is a traffic in minors for such purposes, if violence or intimidation are employed, or if substances harmful to health are administered.

(b) As misdemeanours

(i) Article 582 punishes anyone who strikes or ill-treats a person in deed without causing injury, the penalty being heavier if the persons struck are minor children.

(ii) Failure to fulfil the duties of guardianship and provision of means of subsistence inherent in parental authority (when no offence has been committed) (Art. 584).

(iii) Failure to fulfil the duties of tutelage or guardianship on the part of tutors or persons put in charge.

(iv) Failure to provide adequate assistance to a child under seven years of age who has been abandoned or failure to present the child to the authorities or to its family.

142. Articles 172 and following of the Civil Code govern guardianship of unprotected minors. This is a situation that may originate in some of the acts mentioned above as being punished in the Spanish Criminal Code.

2. Punishment of children in the home

143. In the last paragraph of Article 154, the Civil Code states that parents "may administer punishment to their children reasonably and in moderation." The Act on Civil Proceedings (Art. 1880) provides that "interim protection measures may be adopted ... in regard to children in a family when their parents treat them with excessive harshness and give them orders or advice or set them examples likely to corrupt".

3. Punishment of minors by tutors or teachers

144. Article 6 of the Fundamental Act on the Right to Education (19 recognises the basic right of the pupil to respect for his or her integrity and personal dignity. Royal Decree 1543/1988 on the rights and duties of pupils expands this article and states that all pupils have a right to respect for their physical and moral integrity and personal dignity and must not be in any case subjected to humiliating or degrading treatment or treatment that encroaches on their physical and moral integrity or their dignity. Also they

must not be subjected to physical or moral punishments. The same document stipulates that punishment contrary to the physical integrity and personal dignity of the pupil cannot be imposed in drawing up rules of discipline.

4. Punishment in the system for reform of juvenile delinquents

145. None of the measures that can be imposed by the juvenile courts, according to Fundamental Act 4/92 now in force, on minors between 12 and 16 years of age who have committed acts specified as offences or misdemeanours by the Criminal Code may involve any type of physical punishment or inhuman or degrading treatment and all such measures must be of a basically educational nature. Commitment to a custodial centre is the only act that involves deprivation of freedom. This sentence is educational in purpose; it is intended to promote social reintegration and is in no case punitive.

146. At the age of 16 begins the period of criminal responsibility and a person between 16 and 18 years of age can be sentenced to penalties that involve imprisonment. Nevertheless, minority attenuates criminal liability. The draft Fundamental Act on the Criminal Code now being discussed in Parliament provides that a sentence of imprisonment of 6 years or less on a defendant under 18 years of age shall be replaced by internment in a re-educational centre for juvenile delinquents.

147. The draft Fundamental Act on the Criminal Code contains some amendments to the present Code, providing better protection for minors against ill-treatment. Thus, it may be pointed out that:

(a) A heavier sentence is imposed on anyone who habitually uses physical violence against children or minors under his or her tutelage or guardianship;

(b) The offence of false imprisonment and abduction is punished more severely if the victim is a minor.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Family environment proper

1. Parental responsibility

148. Article 39 of the Spanish Constitution states:

> "1. The public authorities guarantee the social, economic and legal protection of the family.
>
> 2. The public authorities likewise guarantee full protection of children, who shall be equal before the law, irrespective of their filiation, and of mothers, whatever their civil status. The law shall allow for the investigation of paternity.
>
> 3. Parents must provide their children, whether born within or outside wedlock, with assistance of every kind while they are still under age and in other cases which are legally applicable.
>
> 4. Children shall enjoy the protection provided in the international agreements which safeguard their rights."

This involves a radical change compared with the previous concept of parental authority as "paternal authority" and obliges the legislator to amend the majority of the provisions that used to regulate filiation, relationships between father and children and the relationships of marriage or the couple. The reforms of the Civil Code by Acts 11/81 of 13 May and 30/81 of 7 July meets this need to bring it into line with new social demands.

149. Act 11/81 of 13 May that amends filiation, parental authority and the economic aspects of marriage, eliminates the former distinction between legitimate and illegitimate filiation and makes all children completely equal before the law. Article 108 of the Code distinguishes between natural filiation and filiation by adoption. Natural filiation may be in wedlock or outside it. Nevertheless, the distinction does not imply differentiation in regard to the rights and obligations of the two parents, all the articles which discriminated against children by reason of their birth having been amended as part of the reform.

150. Parental authority is an institution established for the benefit of children, as already stated in the decisions of the Supreme Court of 29 September 1960, 24 April 1963 and 8 April 1975. Under the law, parental authority is regarded as a set of responsibilities and obligations of both parents towards their children. According to the law this includes: (i) looking after them, keeping them company, feeding them, rearing them, and ensuring that they have a full education, and (ii) representing them and administering their property. It is exercised jointly by both parents or by a sole parent with the express or tacit consent of the other. In case of disagreement, either of the parents may have recourse to the courts which, after hearing both sides and also the child if the child is old enough to form an opinion and in any case if he or she is over 12 years of age, will grant to one of them the right to decide. The court may also attribute exercise of parental authority in whole or in part to one of the parents or divide the functions between them.

151. The father or the mother, even when they do not exercise parental authority, are obliged to look after minor children and provide them with maintenance. In the expression "provide them with maintenance" the term "maintenance" must be taken to include everything needed to support their existence: housing, clothing and medical care. It also includes education or instruction while they are minors or even later when they have not completed their education for a reason outside their control. It is a constant concern of the public administration to guarantee fulfilment of this obligation. The courts, at the instance of the child itself, of either of the parents or of the Government Procurator's Office, lays down appropriate precautionary measures to ensure the provision of maintenance and provide for the future needs of the child in case of that duty not being fulfilled by its parents.

152. The principle of respect for the views of the child is also reflected in this area of family law. The Civil Code lays down that in the exercise of parental functions, children must always be given a hearing before decisions affecting them are taken. The parents, in the exercise of their parental authority, have the duty and opportunity of representing their minor children and administering their property but they cannot alienate or encumber immovable property, commercial or industrial establishments, precious objects and furnishings and fittings, except for justified reasons of utility or need and with the prior authorization of the courts after approval by the Government Procurator's Office. The request for court authorization must be signed by any child above 12 years of age when it is made by the father or mother holding parental authority.

153. Separation, declaration of nullity and divorce, included in the Civil Code under Act 30/81 of 7 July, do not exempt parents from their obligations towards their children. Judicial measures on the care and education of the children will be adopted for their benefit after the have been given a hearing if they are old enough to form an opinion and in every case if they are above 12 years of age. The court may order, when this is appropriate for the children, that parental authority be exercised totally or in part by one of the partners and that care of the children shall be the responsibility of one or the other, care being taken not to separate siblings. The parent who does not keep custody of his or her minor children will enjoy the right to visit them, to communicate with them and keep them company. The exercise of this right is regulated by the courts through the establishment of a schedule of visits. The right to communicate with minor children is vested in the father and the mother even when they do not exercise parental authority; it can only be restricted or voided by decision of the courts. Personal relationships between the child and other relatives may also not be restricted without just cause.

154. Spain has ratified the XXVIII Convention on the Civil Aspects of International Child Abduction concluded on 25 October 1980 at The Hague, which concerns international cooperation to guarantee fulfilment of decisions of the court as regards the custody of minors and rights of access in the territory of the contracting States and to guarantee also the immediate return of minors transferred or detained illegally in any of the contracting States. It has also ratified the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children signed in Luxembourg on 20 May 1980, an instrument that facilitates the restoration of custody of children when it has been arbitrarily interrupted and the child has been illegally transferred across an international frontier. This is done by establishing judicial cooperation between the authorities of the signatory States.

155. The report of the VI Meeting of the Committee on the Custody Convention (4 and 5 May 1992) mentioned a considerable improvement in the functioning of the Spanish authority.

2. Protection against inadequate fulfilment of the duties inherent in parental authority

156. Since parental authority includes a series of duties laid down for the benefit of the minor, it is subject to restrictions when it is not exercised correctly in the child's interest. Thus the father or the mother can be completely or partially deprived of their authority by a ruling based on their failure to fulfil the duties inherent in that authority or handed down in criminal or matrimonial proceedings. For the benefit or in the interest of the child the courts can order a restoration of parental authority when the cause that led to its being withdrawn no longer applies.

157. The Criminal Code also strengthens the guarantees for the unhindered exercise of these rights by means of the reform introduced in Fundamental Act 3/1989 of 21 June, punishing the following types of behaviour:

(a) A person who, for three consecutive months, fails to pay any type of economic benefit in favour of spouse or children, laid down in an agreement approved by the courts or in a decision of the courts in the case of legal separation, divorce or declaration of nullity, shall be punished by detention or fines. This offence was introduced in the reform of the Criminal Code in 1989;

(b) Abandonment of the family is a separate offence, different from that described in (a), and is governed by Article 587 of the Criminal Code:

> "A person who fails to fulfil the legal duties of assistance inherent in parental authority, guardianship or marriage, shall be punished with a short term of imprisonment and a fine in the following cases:
>
> 1. if he or she deliberately abandons the family home;
>
> 2. if the failure to fulfil the legal duties of assistance has been due to disorderly conduct.
>
> If he or she fails to provide the assistance essential for maintenance of minor dependents or dependents incapable of work or parents or partner when they are in need".

158. In any case the court can decide to withdraw the right of parental authority or guardianship held by a defendant.

> "Those who use or lend children under 16 years of age for begging shall be punished by imprisonment.
>
> The court, if it deems it appropriate having regard for the circumstances of the minor concerned, may deprive parents, tutors or guardians responsible for these acts of parental authority or guardianship."

159. Furthermore Article 584 of the Criminal Code punishes as a misdemeanour with a punishment of up to one month's imprisonment or a fine, various types of behaviour on the part of parents, guardians or other persons responsible for minors. These include:

"1. Parents who fail to fulfil the duties of protection or assistance inherent in parental authority for reasons other than deliberate abandonment of the family home or disorderly conduct.

2. Guardians or others in charge of a person under 18 years of age who fail to fulfil the duties of protection or guardianship for the reasons set forth in the previous paragraph.

3. Those in charge of a mentally deranged person who fail to fulfil their duties of protection or guardianship or who fail to care for old people dependent on their care.

4. Those who, without having participated in misdemeanours against property committed by minors under 16 years of age, benefit in any way from the proceeds of those misdemeanours.

5. Those who coming across a child 7 years of age or under which has been abandoned do not present that child to the authorities or to its family or who in that case do not provide the assistance that circumstances require.

6. Parents, tutors or guardians suspended from the exercise of guardianship and education of a minor, who without committing the offence of disobedience, disregard the decision taken by the court in the exercise of its protective role, taking over the child and disregarding the guardianship established by the decision of the courts; and also parents, tutors or guardians who, without committing the offence of disobedience, fail to comply with a decision of the courts in the exercise of their reforming role by withdrawing the child from the tutelary establishment, family or institution to which the child had been entrusted for observation or treatment. Also liable to the same penalty shall be third persons who take in or unduly receive the child or cooperate in such acts.

7. The representatives of tutelary associations or institutions or directors of establishments or other persons who, failing to apply the decisions referred to in the previous paragraph, unduly hand over to its parents or guardians or to third persons, a minor who has been put in their care unless what they have done constitutes an offence. The parents or guardians mentioned in paragraphs 1 and 2 of this Article may be suspended from the exercise of the rights inherent in parental authority or guardianship over the minor concerned.

B. Children deprived of a family environment

1. The Spanish child protection system

160. In the course of the past decade in Spain a new child protection system has been organized with a gradually improving capacity to take preventive action to deal with the problems of families in situations of difficulty, to detect and adjust risk situations and to deal with socio-familial and psycho-social difficulties affecting particular children of either sex.

161. It is the Autonomous Communities who are responsible for basic legislation on and the planning of social services. Accordingly all the Autonomous Communities have adopted their own social service laws. All the autonomous social service laws differentiate between two levels of service:

(a) the general basic and first-level social services (primary care), which are managed by local corporations under the Act on the Basis for Local Government (municipalities with more than 20,000 inhabitants and counties);

(b) specialised second-level social services, for which the Autonomous Communities are responsible.

The preventive and primary care basis for this system is made up of a network of basic social services.

162. Almost all the Autonomous Communities have already developed a considerable number of regulations in regard to social services. In general, they have issued regulations governing the organization of services, bodies and establishments in the social sphere, setting forth minimum requirements for their authorization and registration, together with other regulations governing the procedures and conditions for obtaining subsidies from the autonomous administrations.

163. The Office for Juridical Protection of Minors of the Ministry of Social Affairs offers support to institutions functioning at any level of the system. Through the Centre for Juvenile Studies it offers information (library and data base), documentation (pamphlets, the review "Infancia and Sociedad" ["Childhood and Society"], guides and books), research data or data from statistical sources, and training.

164. Furthermore, this same Office has launched a project for improving the system for protecting socially disadvantaged children. The objectives of this project are:

To facilitate the detection of cases of ill-treatment and/or abandonment and interchange of information on them between professionals and sectors;

To facilitate the taking of decisions adjusted to the urgency of care and the type of measure to be adopted;

To facilitate the taking of decisions in situations of presumed need to separate the child from its family;

To determine the differential impact of the various social measures used on children who have suffered ill-treatment and/or been abandoned;

To guide the training of the various professionals working in the child protection system.

165. The measures adopted include the drafting and distribution of useful working instruments for professional social workers. This work is being done through agreements with four Spanish universities and is centred in the first phase on:

Devising and developing data collection sheets for use in situations of ill-treatment of children, with instruction manuals for their use. There are seven manuals with appropriate data collection sheets (police matters, mental health, child services, schools, basic social services, care centres and paediatric centres or paediatric nursing).

The drawing-up and testing of criteria for assessing the seriousness of the problems.

The drawing-up and testing of a form for interviews with parents.

The development of a cumulative register of cases of ill-treatment.

Definition and testing of decision-taking protocols soundly based on the well-being and development of the child.

Definition of standards of quality for child care.

Drawing-up and testing of measuring tools that make it possible to evaluate the impact of social intervention on the ill-treatment of children.

Follow-up of three samples of children who have suffered ill-treatment and who have been the subject of three types of social measure (residential centre, fosterage and original family).

Determination and analysis of the tasks and critical situations faced by the different types of professional.

166. Furthermore, the Ministry of Social Affairs has also promoted a concerted plan for the development of basic social services; it has already been described in detail in Section I.E.3.(a).

167. At municipal level there are generally municipal social services coordinated with other municipal services, including the local police, who intervene in the first instance in situations where intervention is necessary.

168. Children benefit directly or indirectly through their families from the basic benefits provided by the social services of the local corporations: information and guidance, home help, lodging and board, the prevention of marginalisation and social integration.

169. In addition to their protective functions it must not be forgotten that the social service acts of the Autonomous Communities envisage the advancement and development of the citizens as an objective to be achieved at the most basic level of municipal care.

170. Boys and girls are usually the indirect users of the information and guidance provided on social services, for example, when an adult requests information on scholarships, on leisure and free-time activities, etc.

171. While, in the first instance, the provision of home help was intended mainly for the benefit of adults and the handicapped, a recent study carried out by the Spanish Federation of Municipalities and Provinces found that in the last few years the child community has increasingly benefited from domiciliary assistance: care in their own home, accompaniment to school when members of their family are in some difficulty, etc.

172. The municipal councils also intervene when some temporary difficulty makes it impossible for a child to remain in his usual home, through the provision of alternative accommodation, always in collaboration with the Autonomous Communities as the tier of administration with responsibility in this respect.

173. Support for family living is a benefit provided by the social services that clearly affects the socializing process of childhood, particularly through programmes of education for children and psycho-social interventions involving members of their families.

174. Finally, the provision of preventive and social integration services includes programmes for children intended to solve actual conflicts and to eliminate the risk factors effecting boys and girls.

175. The child protection system in Spain, in close collaboration with the network of social services already mentioned, has also developed a set of more specific procedures and measures to be used in the situations of ill-treatment and abandonment known in Spanish legislation as "desamparo" ("lack of protection"). These have been brought up to date through the new Act 21/87.

2. The regulatory framework based on Act 21/87

176. Act 21/87 of 11 November amending the Civil Code and the Act on Civil Procedure in regard to adoption and fosterage has brought about a substantial change in the regulations for the protection of children.

177. The protection of children in situations of ill-treatment or abandonment has become in Spain entirely and directly a public responsibility. The whole system of child protection has undergone a profound change as a result of the passing of this Act, which has assigned responsibility for it to each Autonomous Community as the public body which in its own area is competent in this matter under the supervision of the Government Procurator's Office.

178. The main changes introduced by Act 21/87 are as follows:

(a) Adoption in Spanish legislation is always performed by order of a court, which must in every case take into account the interest of the adopted child. It is governed by the principle of the "child's best interest" and it is prudent consideration by the court that must determine what is most appropriate;

(b) Furthermore, the Act, except in special cases, requires the prior authorization of the public body concerned, which presupposes a prior study of the circumstances of the adoption and an evaluation of its appropriateness, thus again strengthening the stress laid by the law on its advantageousness to the interests of the child and helping to provide safeguards against traffic in children;

(c) This principle of "favor minoris" is also recognised in relation to provisions for the protection of children other than through adoption. The Civil Code governs family fosterage, which can be officially instituted with the consent of the parents of the child if they have not been deprived of their parental authority and if consent is lacking approved by the courts in the interest of the child;

(d) The Act furthermore establishes the principle that the re-integration of the child in his or her own family shall be encouraged and that the guardianship or fosterage of siblings shall be conferred on one person or institution, always provided that this is in the interest of the child;

(e) The views of the child are decisive when measures of protection affecting it are being taken. Thus a child over 12 years of age must give his or her consent to be received in a foster family or adopted. In adoption a child under 12 years of age, if mature enough to form an opinion, must be given a hearing by the court. A minor may appeal direct to the courts for fosterage to be brought to an end;

(f) When a child, for one reason or another, has been deprived of his or her family environment and the public administration assumes responsibility for protection or guardianship, this is done formally by arranging fosterage as a measure allowing the child to grow up in a family environment, whereas admission to an institution is the measure of last resort, to be taken when the circumstances surrounding the case make fosterage impossible or inappropriate having regard to the interests of the child. The regulations laid down by the Autonomous Communities in regard to adoption and fosterage usually include priority for measures of protection that provide the child with a family environment, as being the most suitable for his or her personal and social development. In every case, provided that it is possible and advisable, the return of the child to its own family is obtained by acting on the causes for its original separation from that family;

(g) When the only viable solution is admission of the child into a residential establishment, it is a fundamental rule that this should be defined as a temporary measure to last for as short a time as possible, with periodic reviews aimed at devising some other means of giving the child greater stability, whether this is a return to its family, placement with a foster family or, as the case may be, adoption;

(h) Furthermore, steps are taken to enable siblings to live together, to ensure integration of children into the social environment and give children living in centres access to the ordinary systems of education, health and labour;

(i) Supervision of protection and guardianship exercised by the public body is a matter for the Government Procurator's Office, which will be sent any reports it requests as well as periodic information on the development of the guardianship;

(j) It is also important to emphasise with regard to the monitoring of conditions of institutional care, the work carried out by the Defender of the People (Ombudsman), who in 1991 produced a report on the situation of children based on a study on the spot of the conditions in a large number of centres dependent on various administrations, thus helping to detect and eliminate shortcomings that existed.

179. As for the adoption of foreign children, it must be pointed out that Spain is participating actively in the preparatory work on the convention on adoption that is being drawn up under the aegis of the Hague Conference on Private International Law.

180. Many Autonomous Communities, with their responsibilities for child care (social services, protective institutions, implementation of the measures decided upon by the juvenile courts, etc.), have developed the State legislation and laid down regulations for the exercise of their functions in this respect.

181. Application of Act 21/87 in regard to measures to protect children deprived of "amparo" has led to an extensive development of regulations. Among them are the following Acts:

Act 10/1989 of 14 December on the Protection of Children, passed by the Autonomous Community of Aragon;

Act 37/91 of 30 December on measures of protection for children deprived of "amparo" and measures of adoption, passed by Catalonia.

182. Practically all the Autonomous Communities in Spain have developed, by means of regulations, the duties assigned to them by Act 21/87. These include, for example:

Decree 143/1990 of 18 December on procedures in matters concerning child protection, passed by Castile-La Mancha;

Decree 71/1992 on the procedure for the establishment and exercise of protection and guardianship of children, issued by Madrid;

Decree 57/1988 setting forth regulations on the protection of children, issued by Castile-Leon.

Some of the questions dealt with in these regulations are:

(a) The procedure for declaring the existence of a lack of "amparo", which is the precondition for the body assuming guardianship of a minor;

(b) Preventive measures and family support measures;

(c) The organs given powers of decision and consultation (the Aragon Adoption Council, the Madrid Guardianship Board, etc.);

(d) The principles governing the proceedings of the administration, among which the paramountcy of the child's interests is emphasized;

(e) Protective measures such as guardianship, fosterage or admission to centres;

(f) The conditions required to obtain accreditation as collaborating institutions;

(g) The administrative procedures for adoption: selection of the adopters; the reports necessary and the drawing-up of the proposal

that must be submitted to the competent judicial organ before adoption can take place.

183. The Defender of the People emphasises in his report quoted above the undoubted progress represented by Act 21/87 of 11 November

> "compared with the previous legislation in the various matters that it governs, and particularly the various mechanisms it introduces for monitoring the procedures that precede adoption, thus making it difficult for the horrors of traffic in children to occur and hence protecting the dignity and well-being of children".

He mentioned, furthermore, the importance of the wide powers of intervention given to the administration in taking decisions on the situation of a child.

3. Data on the child protection system

184. The human resources available in the Spanish child protection system are for the most part of recent creation, both in the social primary care services and in the more specialised services, with the partial exception of the staff of the residential centres. 32% of the fosterage teams existing in the provincial capitals were established between 1983 and 1986, whereas 60% were created after the entry into force of Act 21/87. Only in 8 provincial capitals was there a service before 1982. As for adoption services, 12% were in existence before 1982, 20% were created between 1983 and 1986 and 68% have been established since the adoption of Act 21/87.

185. It is precisely on the basis of the regular reports of the Defender of the People that there became available on 31 December 1989 the first published official data on minors who had been subject to protective measures envisaged in the new Act 21/87, given that the new statistical system that was to be set up required the establishment of mechanisms for collecting data from the new bodies responsible in each of the 17 Autonomous Communities and from the new competent organs of the judiciary (courts of the first instance or family courts), thus leading to a situation of considerable complexity and to a change in the whole statistical procedure.

186. On 31 December 1989 according to the report quoted, there were in Spain 7,019 children under 16 years of age under the protection of Autonomous Communities (data for the Canaries are lacking), plus 13,081 under guardianship at the request of those exercising parental authority. To these 20,100 children under 16 years of age have to be added 4,306 cases subject to measures adopted under the previous legislation which could, exceptionally, remain in force until they were 17 years of age. The number of children in residential centres at the end of 1989 was 18,626, whereas 5,780 were dealt with outside such centres. Of the total, 51.93% were girls (see table 4).

187. During 1990, 6,619 administrative measures were adopted by Autonomous Communities regarding children who lacked "amparo". In 1991 there were 8,207 such measures, 4,522 of which were automatic protection cases and 3,685 cases of custody without guardianship (i.e. requested by those who possessed parental authority), which indicates a greater capacity of the system to care for children at high social risk (see table 5). All these measures in many cases took the form of support for the families on the part of the network of social services. In the more serious cases they comprised fosterage or residential

care, always of a temporary nature, and only a very small percentage required the withdrawal of parental authority together with an adoption order.

188. Thanks to the gradual establishment of new fosterage teams, in recent years there has been a progressive increase in children placed with foster families and a decrease in the number put into residential care. The number of cases of fosterage on 31 December 1989 was 3203. In 1990 and 1991 respectively, 1,750 and 2,402 new fosterage orders were issued (see table 5).

189. 531 adoptions were proposed in 1990 inside the country, rising to 912 in 1991. International adoptions, given the different procedures in different countries and the delay in many cases in recording the adoptions in the Spanish register offices, were estimated, on the basis of the favourable reports issued by the competent bodies in each Autonomous Community, at 334 in 1990 and 293 in 1991 (see table 5). Finally, it should be mentioned that the Spanish social security authorities have established a system of orphans' benefits, and in 1992 166,452 were paid (see table 6).

4. Ill-treatment of children and its prevention

190. In their activities concerning ill-treatment of children, the municipal social services, because of their closeness to the citizens and the families, play a very important role, both in prevention and in detection and intervention. When these situations are combined with a lack of protection for a child, i.e. when the duties of protection are not fulfilled adequately by the persons who have charge of a child, depriving it of the necessary moral or material assistance, the Autonomous Community intervenes by taking over their protection ("automatic administrative protection"). The police or the courts intervene when offences are committed.

191. The Ministry of Social Affairs, as part of the central administration, intervenes by co-financing experimental programmes for the prevention of risk situations and action in families in which ill-treatment occurs, by means of collaborative agreements signed with the Autonomous Communities. The programmes that are being carried out have been selected on the basis of the following criteria, according to whether programmes of prevention or of care and treatment are involved:

(a) Preventive programmes

(i) The programme should envisage a system of intervention coordinated between the social services, the health services and the young child services in the zone, both for detecting cases and for care of the child and its family;

(ii) With a view to facilitating detection, instruments should be used that allow identification of families at risk by the various professionals involved (social, health and school services);

(iii) Care for families and children should include utilization of existing standard community resources and resources for specific types of intervention;

(iv) The programme should envisage a phase of training the professionals who are to intervene;

(v) The programme should envisage, on the basis of specific and sensitive indicators and reliable instruments, a well-defined evaluation process.

(b) Programmes of care and treatment in situations of ill-treatment of children:

(i) Should be designed to deal with situations of physical and/or psychological ill-treatment;

(ii) Should be integrated in the network of existing services and coordinated with the community resources in the zone (social, mental health, general health and educational);

(iii) Should include a phase of training of the professionals that are to intervene;

(iv) Should provide for a clear and coordinated system of intervention by the various services involved (social service centres, residential care centres, fosterage services);

(v) Should provide for intensive treatment of the family that will make it possible gradually to re-incorporate the child in the family nucleus;

(vi) Should provide, on the basis of specific and sensitive indicators and reliable instruments, for a well-defined process of evaluation.

192. The programmes have been put forward by the Autonomous Communities, which are responsible for financing at least 50% of the cost. Both administrations, central and autonomous, participate in the work of follow-up and evaluation of the programmes developed. For their implementation a total sum was allotted in 1992 of 267,962,380 pesetas, involving 11 Autonomous Communities. These programmes are closely linked with the project for the improvement of the system for the protection of disadvantaged children described in Section V.B.1.

193. In addition to the campaign "Listen to Them" of the Ministry of Social Affairs referred to in Section I.C and which was aimed, inter alia, at preventing ill-treatment, various specific campaigns for the prevention of ill-treatment have been promoted by different Autonomous Communities (Andalusia, Catalonia, Madrid and the Basque country) involving the publication and dissemination of a great deal of graphic material.

194. Finally, it should be emphasized that during the last three years in Spain a considerable number of training activities have been an offer, intended for professionals working with children with a view to enhancing their skills in prevention, detection and adequate care in situations where children are ill-treated. On the one hand, courses have been offered by the Centre for Juvenile Studies of the Ministry of Social Affairs. This centre, in addition, has promoted research and the drawing-up of instruments useful to professionals in collaboration with the various Spanish universities. On the other hand various Autonomous Communities, professional associations and NGOs, often in collaboration with the Office for Juridical Protection of Juveniles, have organized regional and State one-day events specifically on the subject, or with considerable time set aside for discussions on it. They include annual national

congresses on the specific theme of battered children, organized by the Spanish Federation of Association for the Prevention of Cruelty to Children, that have received considerable support from the above-mentioned Office of the Ministry of Social Affairs.

195. In addition, there are various NGOs that co-operate, not only in awareness campaigns and training, but also in interventions in risk situations and in direct care of children affected by ill-treatment or abandonment, in collaboration with the appropriate Autonomous Community.

VI. BASIC HEALTH AND WELFARE

A. The health of Spanish children

196. Compared with most countries, the health of Spanish children is very good, which does not mean that there are still not many things to be done to improve it. If, as has often been stated by the World Health Organization, one of the best indicators of the health status of a country is the infant mortality rate, it will be seen that Spain already in 1974 surpassed its objective of reducing the rate below 20 per 100,000. In 1984 Spanish infant mortality was 9.87, already slightly below the European average. Provisional figures for 1990, supplied by the National Statistical Institute, already show a reduction to 7.63 per 100,000.

197. To analyse in brief the evolution of the health status of the Spanish child population, use will be made of material throwing light on four of the most indicative aspects: mortality, morbidity, accidents and habits of hygiene.

198. In regard to infant mortality, whose primary causes in Spain are congenital anomalies together with prematurity and low birth weight and whose incidence is much higher in boys than in girls (see table 7), the public health and maternal and child health specialists maintain that it is necessary and possible to reduce it still further, particularly in the light of the achievements in Scandinavian countries, by attacking the biological and socio-economic variables that influence gestational age and birth weight.

199. Income, education and access to health care appear to be three of the variables that have most effect on health. The present indicators of mortality and morbidity among children show that there are considerable inequalities in the level of health between Autonomous Communities, particularly in regard to the avoidable causes of illness (e.g. poliomyelitis in marginal groups).

200. Lacking a better knowledge of the distribution of perinatal deaths by gestational age and birth weight, it is evident that in Spain, following the same tendency as in all developed countries, perinatal mortality has acquired greater importance than neonatal and post-neonatal mortality, which are caused by exogenous factors that are easier to control (basically infections). To have an impact on the perinatal rate requires the taking of more complex and costly preventive measures, such as early detection of groups at risk, the follow-up and control of pregnancy, particularly in those groups, antenatal diagnosis and early neonatal diagnosis, family planning, health education, etc., all of which have only recently and partially become established in most of Spain. This last fact means that more detailed data are not available. Estimates of the National Health Institute have calculated that some 58% of the population is reached by the programme of obstetrical psycho-prophylaxis. Some partial studies carried out in family guidance centres dependent on the National Health Institute seem to indicate that the population that benefits from the programme does not include those at greater risk. It therefore remains to take measures so that the population at biological risk (age, for example) or social risk (low cultural level, marginalized sectors) have better access to and make better use of this type of service, which could improve the maternal and child health indices in this group.

201. To go on to child morbidity, data are available from two sources: hospital data which come from the figures for treated illness (hospital morbidity survey) and the data on detected morbidity, obtained through the National Health Survey carried out among adults on the health of their children between 1 and 15 years

of age. The main cause of hospital morbidity in the 1-14 age group is diseases of the respiratory system (see tables 9 and 10) and this coincides with the data available on detected morbidity (see table 9). It must also be pointed out that some Autonomous Communities have introduced health examinations for the school population and have obtained additional information from them. In every case they coincide in saying that caries is the most widespread disease among school-children, after respiratory diseases and throat problems.

202. A problem that requires special consideration is children's accidents, since they represent the first cause of death in childhood. According to European Community data the mean rate of mortality from accidents in the home and during leisure among children aged under 14 years was 8.83 per 100,000 in Europe in 1982-1984. In Spain during that period it was 9.81, i.e. above the mean. It must, nevertheless, be pointed out that our country has joined in the Community initiative to reduce by some 10-20% the number of child accidents in the next few years, basing its action on preventive campaigns. The youngest children emerge as the population group particularly affected (B.6.e). Boys suffer from accidents more frequently than girls and the highest percentage of accidents are those that occur in the home, above all among girls (B.6.f).

203. Another aspect to be considered in relation to the health of children in Spain is habits of hygiene. The diet seems to be quite adequate, although it contains an insufficient quantity of vegetables and fruit and is marked by an excessive consumption of sugary foods: 45% of children consume sweets every day and 30% chocolates and sugared beverages. It appears that these are the fundamental causes of the high cholesterol rates among schoolchildren, which are of great concern to Spanish health staff.

204. Habitual physical exercise is taken, it appears, only by a minority: only 29% practise any sport weekly, 49% do not practise any sport in an organized manner outside the school environment and girls engage in sports to only a third of the extent of boys. Taking into account all forms of physical activity only about 33% of girls engage in any every day as against 45% of the boys.

205. An indicator of the standard of the health system that is often used is vaccination: according to the National Health Survey (1987), 94.4% of Spanish boys and girls appear to have been properly vaccinated.

206. As for Spanish adolescents, the last few years have seen special interest and concern in what WHO terms health-damaging behaviour, particularly the consumption of tobacco, alcohol and drugs. Spanish public opinion is highly tolerant of the consumption of tobacco and alcohol, habits that are very widespread among young people. A very relaxed attitude is shown by the bulk of adults towards such conduct and institutional practices persist which encourage them. It is obvious that in addition to increased monitoring, it is necessary to have an impact on public opinion to accelerate a change of attitudes. Data for 1987 show the highest incidence of smoking between 15 and 24 years of age of all the countries of the European Community for both sexes (61% of males and 49% of females). The second Spanish study on health-related behaviour among schoolchildren, undertaken in 1990 and organized by the Ministries of Health and Consumer Affairs and Education and Science as part of the national drug plan, showed that at 11 years of age some 17% of boys and 12% of girls have already smoked, while at 17 years of age 80% of boys and 82% of girls have smoked. At that age 41% of boys and 46% of girls smoke every day (see table 13).

207. A comparison of the findings from this survey with those for 1986, which only covered schoolchildren between 11 and 13 years of age, shows that the consumption of tobacco has fallen, particularly among 13-year-old girls, whereas the proportion of pupils that do not drink beer has increased, together with a parallel reduction in the number of schoolchildren who drink it only occasionally. All this may reflect some of the first positive results of the education-for-health programmes in Spanish schools. Nevertheless, no significant differences were observed between 1986 and 1990 in the weekly or daily consumption of beer (see table 14).

208. From the study carried out by the National Drug Programme in 1988, it emerged once more that the consumption of socially accepted drugs at early ages facilitates the transition to the consumption of illegal drugs. Drug abusers aged 28 and over began to smoke or drink alcohol around about the age of 17 and began to consume more harmful drugs at the age of 22. Those between 18 and 22 years of age, on the other hand, began with tobacco and alcohol at the age of 13 and only 2 years later at the age of 15.8 years passed on to more dangerous drugs. This means that the earlier the age of first consumption of the less harmful drugs the more rapidly the transition to the more harmful drugs occurs.

209. Various partial studies carried out in Spain show, as in other countries in our cultural environment, that sexual intercourse at an early age is increasingly frequent and that, on many occasions, contraceptives are not used. This is doubtless the reason for the increase in the incidence of pregnancies in girls under 20 years of age, pregnancies that are considered risky, both from the point of view of health (with frequent low birth weight) and from the social point of view.

210. Many types of behaviour and attitudes towards sex are acquired in the family environment and therefore communication on this subject between parents and children is a matter of interest. Despite being absolutely necessary, studies suggest that information on sexuality and contraception for adolescents is not sufficient to make them capable of distinguishing clearly between sexuality and reproduction. That means that the number of adolescent pregnancies does not appear to depend solely or fundamentally on the level of information but also on factors such as the attitude toward sex and personal relationships, the degree of emotional maturity and the quality of the relationships with the parents. It is known, for example, that the daughters of adolescent mothers are much more likely to become mothers at an early age. Above all, it depends on the availability of adequate services of guidance and assistance. The repeat survey of 1990 included questions on information received concerning sexuality. Taking into account the replies of those over 14 years of age, it seemed that 42% of the schoolchildren responding to the questions considered that friends had been their principal source of sexual information. Social means of communication had only been the source for 20% and parents for 17%, the school for 15% and books for 5% (B.6.i).

211. On another subject reference must also be made to a new health-related problem that requires special attention because of its impact on the child population: AIDS. A case of childhood AIDS occurs when a patient fulfils the criteria for an AIDS case as defined by WHO and is 12 years of age or under.

212. The National Aids Registry, which forms part of the National Epidemiological Centre, uses the same criteria as the European centre for the epidemiological surveillance of AIDS. The National Aids Registry is supplied with notifications received by the Autonomous Communities - the bodies that are

fully responsible for matters of public health. A case of childhood AIDS is entered in the Register once it has been notified by the appropriate health centre to the Autonomous Community in which it is situated and later by the Autonomous Community to the National Epidemiological Centre which records it.

213. The data available on AIDS in Spain show a considerable impact on the child population, though much smaller than in many other countries, and indicate that this impact has been constantly increasing in the last few years, with 213 cases in children under 15 between 1981 and June 1990, of whom 84 had died (see table 16). On 31 December 1992 cases of childhood AIDS recorded in the National Register comprised 191 in which the victim had died and 268 still living (see table 22).

214. The Spanish public administrations (Ministry of Health and Consumer Affairs and Autonomous Communities) have increased their means of detecting and controlling the disease and have directed their best efforts towards informing and sensitizing the population, including the population at greater specific risk, considering this the best means of prevention.

B. The maternal and child health programme of the Ministry of Health and Consumer Affairs

215. The maternal and child health programme comprises seven sub-programmes closely linked with childhood:

Family planning;

Early detection of gynaecological cancers;

Care during pregnancy, childbirth and the puerperium;

Genetic counselling and antenatal diagnosis;

Prevention of mental handicaps;

Surveillance of the development of children up to 14 years of age;

Promotion of the health of schoolchildren.

1. Family planning sub-programme

216. Its objectives are:

(a) To prevent undesired pregnancies and risk pregnancies;

(b) To promote the accessibility of family planning services for the whole population of child-bearing age, in regard to both contraception and sterility;

(c) To improve coordination on family planning between the various levels of health care.

217. The measures taken are:

(a) The promotion of information strategies, intended for the public at large and which contribute to the coverage of women of child-bearing age;

(b) Promotion of information and educational strategies directed at groups in which pregnancy involves some type of risk and which contribute to improving coverage. In particular they are directed towards those women who present some type of medical pathology, such as heart disease, liver disease, kidney disease or serious disorders in previous pregnancies; for those who have more than 4 children; for those infected with HIV; those who are drug abusers; mothers under 19 years of age and over 35 years of age; and those who are exposed to genetic risk factors or are socially disadvantaged;

(c) Improvement of the accessibility of family planning services for population groups at social risk. This involves the development of projects proposing concrete measures and involving professionals engaged in health care together with the target population groups;

(d) Promotion of educational and informational activities on contraceptive measures and sexuality;

(e) Prescription and supply of barrier contraceptives;

(f) Depending on the possibilities, prescription of hormonal methods of contraception, following certain established protocols and giving follow-up care to the users;

(g) Monitoring of contraceptive methods designed to ensure appropriate use, training, and examination for and detection of alarm signals connected with contraceptive use.

2. Early detection of gynaecological cancers sub-programme

218. The objective of this sub-programme is to reduce morbidity and mortality from breast cancer and cancer of the uterine cervix.

219. The measures adopted are:

(a) The development of information and educational strategies intended to encourage self-examination of the breast;

(b) From the age of 50 years onwards to promote the carrying-out of X-ray examinations, recording the mammary structure as a basis for further periodic radiological monitoring;

(c) Given the existing controversy between experts on the efficiency and cost-effectiveness of cervical cancer detection programmes, to promote the carrying-out of pilot experiments to evaluate the detection of breast cancer and cervical cancer;

(d) To strengthen the training of cytotechnicians incorporated in the National Health System;

(e) To establish a consensus in Spain on the procedures to be followed in regard to mammary and cervical cancer.

3. Sub-programme for care during pregnancy, childbirth and the puerperium

220. The objectives of this sub-programme are:

(a) To achieve universal coverage with care during pregnancy, childbirth and the puerperium;

(b) To prevent problems associated with pregnancy, childbirth and the puerperium;

(c) To improve the early coverage of pregnancy;

(d) To spread psycho-prophylactic obstetrical care to all pregnant women;

(e) To promote the active participation of the parturient and her partner throughout the pregnancy, birth and puerperium.

221. The measures taken are:

(a) The follow-up of normal pregnancy by periodic examinations, with specific scheduled tests and exploratory procedures;

(b) Maternal education and preparation for childbirth, which includes counselling on care for the newborn, family planning, physical exercises for the mother and coping with stress;

(c) Measures intended to improve care during childbirth, which include the drawing-up of criteria for accrediting neonatal obstetrical centres and units;

(d) Monitoring of the puerperium, which includes home visits, educational activities on care during the puerperium, care of the newborn baby, control of metabolic disorders, psychological support, puerperal exercises and post-partum consultations;

(e) Follow-up of risk pregnancies.

4. Ante-natal diagnosis sub-programme

222. The objectives are:

(a) To detect anomalies diagnosable during the intra-uterine period that may cause severe handicaps, with a view to informing the pregnant woman and making it easier for her, within the legal framework, to take a free decision on what to do about the pregnancy;

(b) To reduce the incidence of congenital anomalies in the newborn;

(c) To expand antenatal examinations of the population at risk;

(d) To detect pregnant women at risk and ensure their referral at an early stage;

(e) To give specific guidance to pregnant women with pathology of the embryo and fetus;

(f) To examine the neonates with a positive diagnosis when a pregnant woman decides to let the pregnancy run its course.

223. The activities involved are:

(a) Every pregnant woman showing some of the characteristics indicating a need for antenatal diagnosis will be offered the opportunity of having the diagnostic tests involved and informed of what may be diagnosed and the risks of the techniques at the various levels of care;

(b) On the basis of consultation of a midwife or general practitioner, the population at risk will be determined and specialized care will be offered;

(c) In the course of the specialized care the risk factor and its impact on the pregnant woman and her child will be evaluated and she will be informed of the facilities available for antenatal diagnosis and decide whether to take advantage of them. If she decides to do so she will be sent to the antenatal diagnosis unit;

(d) The carrying-out by the antenatal diagnosis unit in appropriate cases of supplementary examinations, with a guarantee of voluntary interruption of pregnancy in cases where the woman requests it on the grounds of fetal pathology.

5. Prevention of mental handicap

224. The objectives are:

(a) To reduce the incidence of mental handicap;

(b) To alleviate its consequences in the children affected.

225. The measures taken are:

(a) Genetic counselling of the couple, who are informed of the probability of the birth of a sick child as a consequence of their personal or family medical history;

(b) Antenatal diagnosis, intended to establish the diagnosis of certain chromosomal or metabolic anomalies in the fetus;

(c) Early diagnosis of hereditary illnesses by detection in the first days of life of metabolic alterations or endocrine disorders that lead to bodily and mental deterioration;

(d) Early treatment of the children affected;

(e) Detection of and early care for children with retarded development, by determining the social, family or personal factors that suggest a risk of that development.

6. Sub-programme on the development of the child up to 14 years of age

226. Its objectives are:

(a) To prevent risks by monitoring the growth and development of the child;

(b) To improve the child's health and adjustment.

227. The measures taken are:

(a) An examination of the newborn child in check-up centres in neonatology units in the place of birth;

(b) A programmed health examination within the first 15 days of life;

(c) Periodic check-ups in the first 18 months of life comprising: measurement of the weight, height and cranial growth of the child and physical and physiological examination of psychomotor and intellectual development and nutrition. At the end of 18 months caries prophylaxis will begin and vaccination will be carried out in accordance with the vaccination calendar;

(d) Specific examinations at the ages of 2, 4, 10-11 and fourteen years. Between the ages of nine and eleven years fitness for sport will be evaluated.

7. Health promotion sub-programme for schoolchildren

228. The objectives are:

(a) To develop good habits of oral and dental hygiene, good eating habits and physical exercise;

(b) To develop responsible decision-taking habits and improve ability to cope with group pressure.

(c) To prevent accidents to children;

(d) To develop healthy school environments;

(e) To improve community spirit in schools.

229. The measures taken are:

(a) Promotion of collaborative agreements between health, social and education bodies with a view to developing education-for-health programmes integrated into the curriculum and the school environment;

(b) Promotion of projects that envisage curricular development of learning to live with others;

(c) Development for the training of teaching staff of projects that deal with the learning of skills to cope with stress and conflicts, negotiation and consultation with schoolchildren, the mastery of

methods and techniques of group discussion, the process of problem-solving and decision-taking, and ways and means of providing incentives;

(d) Establishment of agreements with local bodies that will help to provide space and organize activities in and outside the schools that will encourage physical exercise;

(e) Promotion of programmes to inculcate good dietary habits, in close cooperation with parents and the bodies responsible for planning and providing school meals;

(f) Encouragement of the development of comprehensive experiments in education for health;

230. On 15th November 1989 the Ministries of Education and Science and Health and Consumer Affairs signed an agreement for collaboration for an indefinite period in education for health in schools. Its objectives are:

(a) To encourage programmes for the training of teaching staff and other activities connected with education for health in schools;

(b) To encourage cooperation between health professionals, teachers and parents of pupils in promoting healthy lifestyles among the school community;

This agreement envisaged activities connected with the continuous education of the teaching staff, health personnel and other persons responsible for the provision of training in the topics and methods pertaining to education for health and collaboration between the primary social care centres and educational establishments.

231. Both ministries agreed to coordinate all teaching materials for education for health designed for teachers and pupils and for the prevention of health-damaging behaviour; consumption of drugs in the wide sense (alcohol, tobacco ... etc); sexually transmitted diseases (AIDS), undesired pregnancies and road accidents.

232. For programming, supervising and evaluating each programme, under the agreement a technical commission has been set up comprising six technicians from the Ministry of Education and Science and six from the Ministry of Health and Consumer Affairs and experts from outside the Ministries. A commission for follow-up and monitoring has also been formed, composed of five members from the Ministry of Education and Science and five from the Ministry of Health and Consumer Affairs. The human resources and funds needed to carry out the activities foreseen in this agreement are supplied by the two Ministries.

C. The welfare of handicapped children

233. In regard to handicapped children in Spain information has been obtained from a study carried out by the National Social Services Institute (INSERSO) by means of a survey in 1988 of a representative sample throughout the country. Extrapolation of the results to the population as a whole has provided data on the level of deficiencies and handicaps and their distribution by age and sex and the level of education reached by handicapped minors; a much greater

incidence of handicaps is observed in boys than in girls at all age levels (see tables 17-20).

234. Over and above these personal features just described, one of the basic problems to be stressed in regard to boys and girls with deficiencies is that of their social integration. The mass media have widely publicized the various polemics and attitudes of rejection that have surfaced in various parts of Spain when an attempt has been made to integrate in schools children with mental deficiencies, or to quote another case, children with AIDS. Behind these prejudiced social attitudes may lie serious difficulties for the child to develop its capacities and integrate into social life: low self-esteem, feelings of rejection, insecurity, emotional instability etc. Spanish society has shown itself to be increasingly concerned with the right to privacy of persons who are seropositive, defending the need to preserve their public reputations, particularly in the case of children, but, although they are held by a minority, socially reactionary and certain morbid attitudes persist in some means of social communication that make integration difficult, despite the intensive work of various non-governmental organisations and the public administrations.

235. It is because of this that promotion of a better quality of life for children with handicaps or mental health problems cannot be separated from preventive interventions in the social milieux surrounding the child (members of the family, professionals, adults in general, in addition to their peers, schoolmates, etc.) to overcome these stereotypes, prejudices and negative attitudes in general that may hinder social integration of handicapped children. In this direction major efforts are being made by both the central and autonomous Spanish public administrations and there has been an important and positive mobilisation of Spanish public opinion in favour of non-discrimination over the last few years, although some resistance is still being encountered.

236. Another, economic dimension of this effort is reflected in the development in the system of financial benefits provided by the Spanish social security system specifically for the handicapped; they were paid in 1991 to 54,915 beneficiaries up to the age of 19 years (see table 21).

VII. EDUCATION, RECREATION, CULTURAL ACTIVITIES AND CONSUMPTION

A. Formal Education

1. General information on the Spanish educational system

237. In Spain schooling is obligatory between the ages of six and sixteen years since the entry into force of the new Act on the General Organisation of the Educational System passed in 1990. This obligatory schooling is known as primary education (up to twelve years of age) and secondary education (formerly "basic general education"). Before this period there is infant education (formerly known as pre-school education), divided into two cycles (0-2 and 3-6 years). After obligatory schooling there is optional education with a choice between a "unified polyvalent secondary education" (BUP), pre-university education and vocational training.

238. Responsibility for formal education has been transferred to seven of the Autonomous Communities. In the case of the other ten Autonomous Communities plus Ceuta and Melilla the Ministry of Education and Science (MES) continues to manage all activities direct, although a new law is under discussion that will make it possible to facilitate transfers in these instances. Generally the data from the ten Autonomous Communities are referred to as MES data. In the school year 1990-1991 there were in Spain 19,928 schools, of which 14,710 were public and 5,218 private. Of these, 4,320 provided only basic general education and 2,338 only pre-school education, while the rest provided both types. They were organized in a total of 182,331 basic general education units, 40,349 pre-school units and 4,457 special education units for children with difficulties or handicaps. In basic general education there were 224,765 teachers, in pre-school education 36,723 and in special education 7,946. The total enrolment was 5,689,676 (see tables 23 and 24). To distinguish between rural and urban areas the most simple procedure to consider as rural schools with less than eight school units and more strictly still solely those with one to five units that are characteristic of the rural areas. To these may be added the corresponding statistics for the Ministry of Education and Science area showing the number of schools with one to seven units and the number of pupils in them in the 1991/1992 school year, broken down in detail province by province (see table 42).

239. The information is completed by two summary tables (see tables 43 and 44), showing the grouped rural schools in the MES area at the present time and the number of pupils in them and the number of teachers during the 1991/1992 school year and this year. "Grouped Rural Schools" represents a new organisational concept, bringing together the small single schools existing in various localities in the same geographical regions, so that each of the units functioning in its original locality receives travelling teachers specializing in different subject areas to supplement the subjects taught and guarantee standards of quality similar to those in urban schools. The procedure is being widely expanded in view of the results obtained since its establishment at the beginning of the 1987/88 school year.

240. Public expenditure on education in Spain has undergone a spectacular increase in the last ten years. In 1982 it represented 2.8% of the gross domestic product (GDP), whereas by 1992, despite the fact that the GDP had tripled, public education expenditure amounted to 4.7% of it. In absolute figures the cost rose from 542,329 million pesetas in 1982 to 2,777,481 million

pesetas in 1992. Public expenditure on education per pupil rose during that same period from 58,430 pesetas to 298,703 pesetas, or an increase of 411%.

241. MES data for the school year 1988/1989 show that almost all Spanish boys and girls aged 4 to 13 years have attended school. During the school year 1985/1986 the rate of school attendance of four-year-old children was 84.60% and in 1987/1988 90.61% (see table 25). In 92/93 it had reached 99.4%. This shows how in the last few years there has been a general tendency for children of that age to go to school. In the 1988/1989 school year there were over a million children registered for pre-school education, 62.54% of them in public-sector establishments (see table 26).

242. There has also been an increase, although a slow one, in the enrolment of two-and three-year-olds. The available data indicate that from the school year 1985/1986 to the school year 1988/89 (excluding Autonomous Communities where transfers have not yet been carried out) there was an increase in three-year-old enrolment from 16.34 to 20.80% and in two-year-old enrolment from 4.75 to 6.04%. These data are below the actual figures, since they only include the centres authorized by the Ministry of Education and Science to provide pre-school teaching. In absolute figures and solely for the Autonomous Communities to which educational responsibilities have not been transferred (i.e. solely for the MES territory) the enrolment of three-years-olds rose from 12,586 in 1989/90 to 20,560 in the year 1990/91. Furthermore, although recent data are not available, it is known that these percentages vary considerably according to the size of the municipality concerned, as was the case years ago with the rate of school attendance of four- and five-year-olds.

243. Furthermore, there is a network of public infant schools that depend on the Autonomous Communities (with or without complete transference of responsibility for education) and municipal corporations. These schools cater for children up to six years of age, although mostly for the first cycle; while not meeting the whole of the demand, they still represent an offer of improving quality and are now being accredited by the educational authorities, since the Act on the General Organization of the Educational System provides for the drawing-up of agreements to increase the number of schools available.

244. The reduction in the percentages of 14- and 15-year-olds attending school has been a matter of concern during the last decade; the problem had its origin in the establishment of obligatory schooling up to 16 years of age in the new Act. According to data for 1985/86 at 14 years of age the rate of school attendance fell to 90.14% whereas at 15 years of age it had fallen to a mere 76.15%; the statistics for 1987/88 showed that while the rate at 14 years of age was round about 100%, at 15 years of age it was only 85.55%, but that in the 1992/93 school year it had already reached 98.70%.

245. The option of continuing with pre-university studies (post-secondary and university entrance) is clearly more popular among girls, whereas more boys choose vocational training.

246. In Spain schools run by public authorities are practically twice as numerous as private schools at all levels of education (see table 26). It must be remembered that in addition to pupils covered by formal education, the Spanish public educational system covers those following various types of non-formal education, among which remedial education, which will be discussed later, is of particular interest.

247. An analysis of the distribution of teachers for the different age groups shows clearly the imbalance between men (41.75%) and women (58.25%) in the Spanish educational system; the percentage only changes in favour of males in vocational education.

248. It is enrolment in pre-school classes (now known as "infant education") during the last few years that has shown the greatest change (see table 28).

249. At the basic general education level, the distribution of places between the public sector and the private sector has varied but little during the last few years (see table 29). The percentage of girls in the public sector (46.4% of the total number of pupils) is less than in the private sector (52.0% of the total). The number of girls is particularly high in Catholic schools.

250. In the 1985/86 school year, 384210 pupils, or some 6.87% of the total enrolment, repeated a year in basic general education. The percentage of repeaters was lower among the girls, as is the case in other countries. It is also lower in private schools. In the 1987/88 school year there were fewer repeaters: 244,228, or 4.52% and there again they were in different proportions, 5.25% of the boys and 3.64% of the girls. The data available for the 1991/92 school year, restricted to the MES area, show a total percentage of repeaters of 5.87%, (6.92% in public schools; 3.99% in private schools) (see table 30). To help these pupils considerable efforts have been deployed by the various Spanish public administrations, particularly by means of interdisciplinary professional school-support teams, which will be described in greater detail later.

2. Pupils with special needs

251. The education of pupils with special needs who have not been integrated in ordinary schools is provided in special educational centres, of which in the 1987/88 school year there were a total of 588 (242 public and 386 private), with an enrolment of 41,231 pupils, or else in special classes in ordinary schools, of which there were a total of 5,734 (5,336 in public-sector schools and 398 in private schools), with 62,414 pupils. There were fewer girls than boys in these centres and classes, in line with the smaller number of girls with handicaps, as already mentioned in Section VI.C of this report.

252. Special education in Spain is governed by a large number of regulatory texts:

The Spanish Constitution, Articles 27 and 49;

Act 13/1982, dated 7 April, on the Social Integration of the Handicapped (BOE 30 April 1982);

Fundamental Act 8/1985 dated 3 July, on the Right to Education (BOE 4 July 1985);

Royal Decree 620/1981 dated 5 February on a unified system of public assistance for the handicapped (BOE 6 April 1981);

Royal Decree 334/1985, dated 6 March, on the Organization of Special Education (BOE 16 March 1985);

Order of the Ministry of Education and Science, dated 20 March 1985, on planning special education and trying out integration during the school year 1985/86 (BOE 25 March 1985);

Royal Decree 2377/77/1985, dated 18 December, approving the Regulations on Basic Standards for Educational Agreements (BOE 27 December 1985);

Order of the Ministry of Education and Science, dated 30 January 1986, which, pursuant to the first operative clause of Royal Decree 334 of 6 March 1985 on the Organization of Special Education, established staff/pupil ratios in special education (BOE 4 February 1986);

Order of the Ministry of Education and Science, dated 14 May 1986, amending and correcting the order of 30 January (BOE 4 February), which, pursuant to the first operative clause of Royal Decree 334 of 6 March 1985 on the Planning of Special Education, established the staff/pupil ratio in special education (BOE 29 May 1986);

Order of the Ministry for Relations with Parliament and of the Government Secretariat dated 22 January 1987, opening the way to the submission of requests for public assistance to the handicapped for the financial year 1987 and setting income limits and the types and numbers of such handicapped persons (BOE 23 January 1987);

Order of 30 January 1986 on planning special education and extending trials of integration during the school year 1986/87 (BOE 4 February 1986);

Order of 16 January 1987 on planning special education and extending trials of integration during the school year 1987/88 (BOE 23 January 1987);

Order of 25 February 1988 on planning special education and extending trials of integration during the school year 1988/89 (BOE 3 March 1988);

Order of 2 January 1989 on planning special education and expanding the programme of integration for the school years 1989/90 and 1990/91 (BOE 4 February 1989);

Order of 15 June 1989 authorizing basic general and pre-school educational centres to join in the programme of integration of pupils with special educational needs for the school year 1989/90 (BOE 14 August 1989);

Order of 15 January 1990 authorizing basic general and pre-school educational establishments to join in the programme of integration of pupils with special educational needs during the school year 1990/91 (BOE 10 February 1990);

Order of 7 May 1990 establishing a standard staffing table in public pre-school, basic general education and special education establishments (BOE 1 June 1990);

Order of 18 September 1990 establishing staff/pupil ratios for educational care of pupils with special needs (BOE 2 October 1990);

Fundamental Act on the General Planning of the Spanish Educational System (LOGSE) approved by the Chamber of Deputies on 13 September 1990.

3. Educational and psychopedagogical guidance teams

253. The Act on Social Integration of the Handicapped of 1982 created what were known as multi-disciplinary teams to adequately meet the needs for educational planning of special education and in particular the integration into ordinary schools of children with special educational needs, the teams comprising psychologists, teachers, social welfare workers and logopaedic experts.

254. As far back as 1977 School and Vocational Guidance Services had been set up, made up of teachers in basic general education who were at the same time psychologists or educational experts. On the basis of the most recent plans of the MES and in particular the Office for Educational Reform the functions of these services have converged with those of the multi-disciplinary teams, which were first of all known under that name, but since the Ministerial Order of 9 December 1992 have the title of Educational and Psychopedagogical Guidance teams. There were 275 such teams in 1991 in the MES area.

255. The functions of these interdisciplinary teams as defined by the Office for Educational Reform are described in the following paragraphs.

256. Functions of a general nature:

(a) Functions of sectoral scope:

(i) To determine the existing resources in the area and contribute to their optimum utilization;

(ii) To promote the integration of educational establishments in their social and cultural environment;

(iii) To collaborate with teachers' centres, university departments and teacher training schools in establishing training programmes for teaching staff;

(iv) To undertake psychopedagogical assessment of the pupils with special educational needs and propose more appropriate systems of schooling for them;

(v) To collaborate with the educational authorities in the analysis, investigation and evaluation of the educational system;

(vi) To give impetus to collaboration and the interchange of experience between schools and ensure the functional coordination of their guidance departments;

(vii) To draw up, adapt, distribute and disseminate materials and instruments on educational psychology that will make teaching practice easier;

(viii) To participate in the establishment of programmes of educational innovation;

(ix) To cooperate in campaigns for the prevention of drug abuse and social maladjustment;

(x) To collaborate in the development of programmes for the training of families.

(b) Functions of support for schools. The functions of the interdisciplinary teams in this sphere have to be carried out systematically, not merely in response to the requests of the schools themselves, and through the teachers, as those directly responsible for teaching activities. In actual practice they consist in:

(i) evaluating and providing technical support for schools and teaching teams by:

drawing up and establishing an educational project and a curricular project, specially as regards matters connected with adjustments or adaptations that curriculum programming requires for certain pupils or groups of pupils, as well as for any other programme of educational innovation,

where appropriate, introducing into practice the organizational and methodological changes required by a reorganized school,

devising methods and processes of evaluation both of pupils and of the actual processes of teaching,

preventing disorders and maladjustments that may make learning difficult or hinder the personal development of the pupils,

ensuring the fulfilment by form masters of their supervisory function;

(ii) to cooperate in better coordination between groups of teachers;

(iii) to provide the teachers with material that will support them in their teaching practice;

(iv) to cooperate in improving teaching and learning processes.

257. The specific and specialised functions of the teams change according to the pupils' characteristics and needs and their stage of development and learning and according to their educational level. They comprise:

(a) Infant education:

(i) Collaborating with the teaching staff in selecting experiments and activities that will help in the integration of the pupils, stimulate their capacities, strengthen their autonomy, self-esteem and personal security, consolidate good habits and strengthen mutual knowledge and equality between sexes;

(ii) Prevent the occurrence of difficulties in basic learning processes;

(iii) Carry out from the point of view of educational psychology an evaluation of the pupils with special educational needs, designed to determine how they function in the various areas of development with a view to proposing schooling more suited to their personal characteristics;

(b) Primary education:

(i) To detect learning difficulties, particularly in instrumental areas, so as to collaborate with teaching staff in devising and putting into practice programmes of recovery and reinforcement;

(ii) To review, monitor and follow up pupils with special educational needs. To collaborate with teachers in devising appropriate adjustments to the curriculum;

(iii) To assist the teaching staff in determining criteria for academic advancement and evaluation of pupils;

(iv) To give teachers technical support in developing programmes to initiate pupils in techniques of self-learning and intellectual work;

(c) Secondary education:

(i) To collaborate with the teaching staff in developing the vocational maturity of the pupils and enabling them to acquire skill in taking decisions regarding their future educational and career pathways;

(ii) To contribute to the establishment among the pupils of the instrumental capacities suited to their stage of development, viz:

abstract concepts and reasoning,

moral judgement,

adoption of values,

personal and social autonomy;

(iii) To assist pupils in various transitions between schools and levels of education and from educational institutions to working life.

258. In 1985 early care teams were set up. These are one of the types of educational and psychopedagogical guidance teams specialized in the infant stage (0 - 6 years). They are made up of four professionals from different disciplines, i.e. a psychologist, an educator, a logopaedic expert and a social worker. There are now 55 teams of this kind in the MES area.

259. Their priority is to plan the most appropriate educational response for children with special educational needs in infant schools, encouraging early educational intervention and attention and ensuring continuity between the successive stages in the ordinary educational system. Their principal objective is to help improve the educational conditions in schools that receive children

from 0 - 6 years of age, by providing the support necessary for their integrated development.

260. Given the fact that the infant schools that receive children of these ages belong largely to city councils, county councils and Autonomous Communities, the Ministry of Education and Science is establishing agreements for collaborating with those institutions. These agreements lay down the number of early care teams that will give special support to infant schools under Municipal and Autonomous Community authority.

4. Educational Guidance Programmes

261. To guarantee that guidance activities are carried out in the schools, educational guidance programmes have been established in secondary schools since 1987 and in basic general education schools since 1988.

262. These guidance programmes must be fully integrated in the general programming of the school concerned and must involve the whole teaching staff and should be approved by a majority vote at a staff meeting by the school council.

263. In secondary education the person responsible for coordinating guidance activities must be a tenured teacher in the school, if possible with a degree in psychology or teaching; and must devote nine teaching hours carrying out his guidance tasks. In the basic general education schools the teacher appointed must be a psychologist and must be almost entirely free of teaching duties.

264. The functions to be carried out by the guidance units or departments in schools are spelt out in detail in the White Book on the Reform of the Educational System, Chapter XV, and in a document issued by the General Sub-Office for Experimental Programmes under the title of "Educational Guidance and the Role of Educational Psychology". Inter alia they must:

(a) coordinate, support and provide technical assistance for activities of guidance and tutorship and participate in evaluation activities carried out by the teachers with the appropriate groups of pupils;

(b) collaborate in developing the school's project and its various aspects and contents;

(c) promote cooperation between family and school for making education more effective;

(d) contribute to the personalizing elements of education, curricular adaptations, development programmes and educational psychology activities and support;

(e) help the pupils to become well integrated in the school and in their peer group, this being particularly necessary at times of transition: school enrolment and change of cycle.

(f) inform, counsel and guide all the pupils in an individualized way concerning the options between the various educational and vocational possibilities from which they must choose;

(g) intervene in every type of decision regarding pupils, particularly decisions concerned with promotion from one cycle to another and educational backup;

(h) prevent possible learning problems among the pupils, helping them to overcome difficulties by suitable methods of intervention;

(i) maintain the links between the school and the inter-disciplinary team of the sector and other schools in the zone.

5. Remedial education

265. Among the specific objectives and activities recommended in the Royal Decree on Remedial Education (1174/1983) in relation to children and adolescents, three may be emphasized:

The establishment of resource and service centres for school support, with a view to assisting educational institutions in rural areas, particularly those that are incomplete;

The development of literacy campaigns;

The establishment of special courses for young people aged 14 to 16 years who are not in school, with a view to providing them with vocational training and completing the general education they received under the basic general educational system.

266. During the last few school years five areas of activity have been developed in remedial education:

(a) Programmes for rural areas;

(b) Programmes for prevention of school drop-outs through projects of remedial training in basic general educational and vocational schools;

(c) Programmes of care in occupational workshops for young dropouts;

(d) A programme aimed at ethnic and cultural minorities, particularly the gypsy population or immigrants;

(e) A programme aimed at itinerant people (circuses, fairs, temporary agricultural workers).

In total the whole programme of remedial education reached 113906 pupils in the 1991/92 school year (see table 35).

267. The rural area sub-programme reaches 75444 pupils, in addition to 239 in rural centres of educational innovation and 507 in resource centres that care for pre-schoolchildren not attending educational institutions (see tables 35 and 36).

268. The sub-programme of projects for remedial education in schools reaches 40,301 pupils with basic general education and 1,105 with vocational training. Within this programme of prevention and care for school dropouts the occupational workshops project reached 3,031 pupils in the school year

1990/1991. Finally, the programme directed toward cultural minorities reached 10,277 pupils (see tables 35 to 39).

269. More recently, the Act on the General Planning of the Educational System devoted its Section V to remedial work to compensate for inequalities in education, emphasizing the activities to reinforce the educational system that are required to implement the policies of remedial training.

6. Other recent improvements in the educational system

270. As pointed out throughout the text, the Act on the General Planning of the Educational System (LOGSE) opens up some new possibilities for the solution of many of the more urgent problems facing the Spanish educational system. Its clear objectives are such fundamental ones as extending basic education to sixteen years of age under conditions of obligatory and free schooling; the reorganisation of the educational system, establishing as its general framework the stages of infant education (0 - 6 years), primary education (6 -12 years), secondary education (comprising obligatory secondary education, high school education and medium-grade vocational training) and higher-grade professional training and university education.

271. The LOGSE Act has an implementation calendar covering 12 years and there is no doubt that it faces a considerable challenge if it is to have some impact in improving the school life of Spanish children.

272. An important novelty is infant education, which extends from the first months of life to 6 years of age. Its principal features are its voluntary nature, close collaboration between schools and families, the coordination between administrations needed to provide the number of school places offered to the public at infant level, its educational character as expressed in its general aims and objectives and the professional skills of its teachers and educationalists.

273. In primary education the main novelties are its organization in three cycles of two years each, the establishment of the curriculum, and the incorporation of teachers specializing in music, physical education and foreign languages.

274. The development of the Act has already added certain measures which will have an impact on the quality of teaching and which are beginning to be applied in practice. Among them may be mentioned the reduction in the maximum number of pupils per class to 25, measures for the continuous education of the teachers, documentation and guidance for developing curricular projects and programmes in the schools and definition of the minimum requirements that have to be met by all schools, whether private or public.

275. It is also noteworthy that LOGSE makes special reference to the adoption of measures to allow for the diversity of interests and aptitudes among the pupils. Thus, in Article 6 it establishes the right to remain until 18 years of age in ordinary schools, receiving basic general education. Articles 14, 20 and 21 envisage adaptation of teaching methods and organization to meet the many different needs, aptitudes and interests of the pupils, while Article 23 provides for individualized programmes of curricular diversification and also specific programmes of social guarantees for those who have not achieved the objectives of obligatory secondary education.

276. Another important innovative aspect in the Spanish system of education is the development of so-called cross-linking subjects. Pursuant to the Act on the General Planning of the Educational System the Royal Decrees which have established the curricula for the various stages in education, define some types of teaching that must be given throughout the different subject areas. These include moral and civic education, education for peace, education for health (already referred to in Section VI.A), education for equality of opportunity for the two sexes, environmental education, sexual education, consumer education and education on traffic rules.

277. These cross-linking teachings or subjects thus permeate the established curriculum in its various areas to such an extent that teachers are not aware whether at a given moment in class work they are dealing with a particular field or a particular cross-linking subject, since they permeate each other: the cross-linking subjects are present in the fields of study and the fields of study are present in the cross-linking subjects. Cross-linking teaching therefore is not introducing new content which is not already reflected in the curriculum for the various fields of study, but organizing some of the contents of fields of study round a particular educational axis.

278. Since they have to permeate educational activities as a whole, cross-linking teachings are the responsibility of the whole educational community and particularly the teaching staff. In particular they have to be present in a school's educational project, in the draft curriculum for the particular stage in education and in the programming done by the teaching staff.

279. Relationship between the cross-linking subjects at the various stages of education:

(a) In infant education:

(i) moral education and education for peace;

(ii) education for equality of opportunity between the sexes;

(iii) education for health;

(iv) environmental education;

(v) consumer education;

(b) In primary education;

(i) moral and civic education;

(ii) consumer education;

(iii) environmental education;

(iv) education for health, sexual education;

(v) education for peace;

(vi) education in the rules of the road;

(vii) education to promote equality of opportunities;

(c) In obligatory secondary education:

(i) environmental education;

(ii) consumer education;

(iii) moral education;

(iv) education for equality of opportunity between the sexes;

(v) education for peace;

(vi) education for health;

(vii) education in the rules of the road.

280. To help teachers to develop the curriculum in regard to cross-linking teachings or subjects the Ministry of Education and Science has commissioned experts to draft guides on the various subjects. Coordination was carried out by the Innovation Department of the Office of Educational Reforms. All these guide documents have the same structure. They begin with a general presentation of the subject dealt with: its significance, how it became an important part of education. They then go on to define the curricular content and criteria for evaluation of each field and stage of study. A third part provides guidance on teaching and on evaluation in relation to the curricular contents involved and a final section provides a guide to documentation and useful resources for the teaching staff. It is not an exhaustive guide but a selective, annotated one, so that it can be of real use to anyone who consults it.

281. Furthermore the Ministry of Education and Science, as part of its plan of continuous training for teachers, is developing programmes of training in branches of knowledge recently incorporated in the curriculum; these programmes are promoted by the Ministry of Education and Science itself and by other ministerial units or bodies. Among them are programmes of:

(a) Coeducation (in agreement with the Ministry of Social Affairs);

(b) Education for health (in agreement with the Ministry of Health and Consumer Affairs);

(c) Environmental education (in agreement with the Ministry of Agriculture, Fisheries and Food).

282. In this teacher training plan a pilot experiment has already been developed by the Ministry of Education and Science, the Ministry of Social Affairs and the Spanish Red Cross in Madrid, to provide courses specifically concerned with the rights of children. Given the success of the experiment, its application to the rest of Spain is now being considered.

283. In another connection it must also be pointed out, because of its contribution to the principle of equality of opportunities, that the MES is developing a scholarship programme specifically for pupils up to 14 years of age. Thus, in addition to the fact that education at the basic general level is obligatory and free of charge, help is given to pupils who have no school in their own locality by providing free school transport as well as a canteen service in cases where the school hours oblige the pupil to remain at school

morning and afternoon. In the school year 1990/91 in the 28 provinces in which responsibility for education has not been transferred, assistance with transport was given to more than 150,000 pupils and with school meals to about 125,000 (see table 40).

284. In the case of pre-school allowances, assistance is intended for pupils of 4 and 5 years of age who attend private or State-assisted schools and whose family income does not exceed a certain level. The allowance amounts to 40,000 pesetas and it is granted on the basis of annual awards.

285. Special education allowances are also awarded annually. This assistance is intended for pupils affected by some physical, mental or sensory deficiency or by maladjustment who carry out their studies in specific special schools or in special classes integrated in ordinary schools. These pupils receive certain types of aid depending on the various sources of expense caused by their education: teaching fees, transport, board and lodging and transport at the end of the week.

286. Finally, it should be emphasized that the Spanish educational system allows for the enrolment of foreign children even when their status as immigrants, seekers of asylum or refugees is still under discussion. This means that there was a total of 8,399 foreign pupils in the school year 1992/93 in the public-sector schools in the whole of Spain, i.e. 0.62% of the total enrolment, and the figure included many whose stay in Spain may not have been officially approved (see table 44).

B. Leisure and cultural activities

287. Among the overall data available that provide more evidence of the structure of the leisure of Spanish boys and girls, mention should be made of the Survey on the Cultural Behaviour of Spaniards carried out in 1985 and of the 1988 Youth Survey. Both showed how television mediatizes the whole of leisure activities, culture, free time and consumption. Almost all the cultural activities (including sports) are "practised" more through television than in "reality" (see tables 45 and 46).

288. It is evident that the offer of an alternative makes it possible, as has already been shown by local experiments, to alter this concentration on television, and in this we find another of the great promotional challenges facing our public administrations today. This report will now consider three wide aspects of the free time of children and young children: sports, cultural events and membership of associations.

289. Sport can be analysed from two standpoints: from that of the practice of sport and from that of being present at, listening to or viewing sporting events. From the age of 6 years onwards it is evident that the closest link of the Spanish public to sport is through television, which is practically twice as important as any other link. We find that sport is watched rather than practised and hence represents a fundamentally passive contact. The population group that is most concerned with sports is that of males between 14 and 19 years of age.

290. From the 1990 study already quoted on schoolchildren and health, it is clear that between the ages of 15 and 18 years a large percentage of pupils do not habitually engage in organized sport outside school time. Some 28% declare that they never engage in sports, some 58% engage in it weekly and some 14%

daily. The taking of regular physical exercise is more frequent among the children of technicians than among those of workers. It is also more frequent among boys than among girls and diminishes with age (see table 47).

291. Various other cultural activities carried out by children and adolescents are related to reading. In the group 6 to 13 years of age the preference is for comics, which are far ahead of any other form of reading, whereas between the ages of 14 and 19 magazines and books are the most often read, although the boys continue to read mainly comics (see table 48).

292. Between the ages of 14 and 19 years over 90% of young people of both sexes are in contact with the cinema through television, which indicates a much closer relationship than with any other form of cultural expression. It must be added that films are ever more frequently seen through videos, to which boys in better-off families and in the urban areas have most access. 56% of those surveyed in 1985 never saw videos and of those who did see them over half were accustomed to watch them for between 1 hour and 3 hours a week (see table 49).

293. As for open-air leisure activities, it is boys and girls between 6 and 13 years of age who most often go to parks and gardens and to nature reserves, whereas the age group between 14 and 19 years of age is more likely to attend popular and religious feasts, there being no significant differences between the sexes in this regard (see table 50). Cultural pursuits and leisure from 14 years onwards have been the subject of special attention in the Youth Reports published by the Youth Institute of the Ministry of Social Affairs, the last edition of which appeared in 1988.

294. A noteworthy initiative, which in Spain has been adopted by all the Autonomous Communities, is the youth card, which has been supported by the Youth Institute and can be obtained from 14 years of age onwards. It provides important facilities for access to various services, particularly cultural and leisure services, and also gives a right to commercial discounts and to travel and lodging facilities.

295. Membership of associations among Spanish boys and girls varies a great deal between different Autonomous Communities. The results of a survey carried out by the Youth Institute in 1990 showed that only some 24% of boys and girls between the ages of 15 and 19 years belong to any association, while some 17% had been members in the past. The boys show the greatest tendency to join associations and begin to do so somewhat earlier than girls. Among the members of associations, over half the boys belong to sports clubs, whereas among the girls the highest membership is in associations of a religious nature (see tables 51 and 52).

296. The Integrated Youth Plan approved by the Inter-ministerial Commission for Youth and Childhood at the end of 1991, includes an extensive set of activities to encourage participation and membership of associations among those over 14 years of age, among which the following projects are noteworthy:

1. Education for social participation.

2. Subsidies and assistance for student associations.

3. Assistance for extra-curricular activities.

4. A "Youth and University" programme.

5. Youth initiatives in the localities.

6. Youth clubs.

7. Training of socio-cultural leaders.

8. Youth Council of Spain.

9. Participation in the drawing-up and follow-up of the Integrated Youth Plan.

10. Youth associations hotel.

11. Training of staff for youth associations.

12. Training courses for young members of associations.

13. Counselling of associations by the administration.

14. Support for the hiring of technicians in associations.

15. Subsidies.

16. Civilian Service Act.

17. Voluntary social work by young people.

297. The child and youth associations and the services provided for children and young people by NGOs form part in Spain of a federative structure of pyramidal nature based on the local Youth Councils, which are grouped together in Autonomous (regional) Youth Councils and finally make up the Youth Council of Spain. These councils are recognised as discussion partners and representative consultative organs by the various tiers of public administration concerned.

298. The last point to be mentioned is that some Autonomous Communities and some local bodies (especially in Catalonia) have developed certain leisure services with important functions for the learning of practical skills, intended for children under 18 years of age who have dropped out of the school system. These services, generally known as "pre-workshops" and "open centres" are similar to those provided in the educational system as part of the remedial education programme discussed in Section VII.A.5, with the difference that they are usually dependant on the network of social services. In some cases also they have some connection with certain services of training for young people without vocational qualifications offered by the National Employment Institute (INEM). Finally also, some of these services are used for the social reintegration of juvenile delinquents in coordination with the social educationalists of the basic network of social services.

C. Consumption

299. Modern mass media, as already stated, have a great attraction for Spanish boys and girls and not only act as transmitters of culture but also as vehicles for transmitting every type of information, including that designed to encourage consumption. Within the sphere of social interaction the child is subject to many open or subliminal messages as a consumer. The child and youth sector has been paid increasing attention throughout the last few years on the part of

commercial marketing, which considers it as an expanding market of great potential, in which it is toys for children above all that are one of the best businesses.

300. The child has to learn how to interpret the messages that he or she receives and more particularly advertising messages and can and must learn to be a fastidious and critical consumer. When a child, because of its stage of development, is not capable of coping with certain information, it should be protected by society against the manipulations and risks that may be involved and this is another of the great efforts to which various branches of the Spanish public administration are pledged.

301. Obviously children not only see on television the children's programmes or the publicity for toys beamed directly at them, but may be manipulated or confused by messages supposed to be intended for adults and may run the risk of receiving information on products destined for adult use but which may have an impact on child safety (e.g. domestic electrical appliances). Furthermore, many of the images presented in various programmes and films broadcast by television, as is well known, promote types of behaviour undesired by most of present-day parents, such as violence, sexism, excessive competitivity, etc.

302. In the sphere of childhood and consumption and in relation to education of the consumer, the National Consumer Institute is intervening at two levels: educ ation intended for children, and education intended for the adults responsible for children. The Institute has drawn up and disseminated various teaching materials to be used in schools. Among the subjects which could be considered for development and treatment and in regard to the prevention of accidents to children, mention may be made of

(a) Objects designed for use by children and which are acquired by adults, (e.g. seats for babies in motor vehicles);

(b) Structures for children to use or be in (school installations, recreation areas, etc.);

(c) Products for use and consumption by children that cause accidents because they are made with materials inappropriate to their age (for example, small components of toys);

(d) A system of information on accidents caused by consumer products in the home and in leisure areas.

303. An extensive programme of activities has already been launched to support consumer education in schools (see Section VII.A.6) in collaboration with the various Autonomous Communities. Initiatives have been subsidized in 12 of the Communities and in addition to activities with the pupils some include activities with parents, the training of teachers and the development of specific teaching materials (see table 53).

304. Recently in Spain, in line with the requirements of the European Community and the Community directives on the quality of products and services which will enter into force with the single market, a beginning has been made on developing a considerable number of legislative measures with a view to enabling the consumer in general to have clear and practical information available on the safety of products on which to base a choice. The children's food sector, with

its wide offer of sweetmeats and similar products of very low quality or nutritive value, is one that needs greater regulation.

305. Among the legislative provisions that been adopted the following may be mentioned in relation to boys and girls:

(a) General Act for the Protection of Consumers and Users (Act 26/1984);

(b) General Act on Advertising (Act 34/1988);

(c) Safety standards for Toys, Tools for Child Use and Novelty Articles (RD 2330/85);

(d) Royal Decree approving safety standards for toys (RD 880/1990);

(e) Prohibition on the manufacture and marketing of products of deceptive appearance that put in danger the health or safety of consumers (RD 820/1990);

(f) Technical and hygienic regulation of collective canteens (RD 2817/83);

(g) School transport and transport of juveniles (RD 2296/83);

(h) Spanish Codex alimentarius. This sets forth the general conditions that for domestic and child use must be met by solvents, glues, varnishes, paints, dyes and other similar materials (Royal Decree 842/85);

(i) Chemical products - the packaging and labelling of hazardous substances (RD 725/1988);

(j) The labelling, presentation and marketing of industrial products (RD 1468/88, amended by RD 1182/89);

(k) The labelling, presentation and marketing of packaged food products (Royal Decree 212/92);

(l) Labelling concerning the nutritive properties of food products (RD 930/92);

(m) Preparations for nursing mothers and weaning preparations (RD 1408/92);

(n) Toxic and hazardous residues (RD 833/1988);

(o) Technical and hygienic regulations for the manufacture, circulation and marketing of detergents (RD 2816/1983);

(p) Technical and sanitary regulations concerning bleach (RD 3360/1983);

(q) Safety requirements for electrical equipment (RD 7/1988).

306. Given the manifold nature of child consumption a better design and development of preventive and educational measures can be achieved on the basis of close collaboration between various professionals and sectors involved,

brought together for example in an evaluatory or consultative commission. Over and above the generation of new programmes of activities and new legal measures, there is also a need for effective monitoring of the fulfilment of the regulations already adopted.

307. Programming for children as well as advertising must take strictly into account the rights and needs of boys and girls, laying emphasis on the right of the child not to be manipulated and used in a consumer role.

308. Furthermore, it must be emphasized that during the last decade great efforts have been made throughout Spain to provide information on consumer topics to all citizens. It suffices to say that, at the moment, there are 698 Municipal Offices of Consumer Information and 7 National Consumer Associations, not to speak of the others which, because they are established at Autonomous Community, provincial or local level, are not registered because most of them form part of those already mentioned; all this shows clearly that almost the whole of the population of Spain has nearby centres for information and complaints in regard to consumer problems.

309. To alleviate the problem of information in the semi-urban and rural areas, some local bodies, such as the Provincial Council of Seville in collaboration with the Andalusian Council and the National Consumer Institute, have created mobile consumer information offices.

310. It should be emphasised, that as an immediate measure to guarantee the health or safety of children, there exists a system of rapid interchange of information through which the marketing of a product detected in any of the Community countries that does not meet the permitted conditions of quality and that may involve a risk for health, can be suspended.

VIII. SPECIAL PROTECTION MEASURES

A. Refugee children

311. Spain has issued a special Act for the recognition and exercise of the right to asylum and refuge. The right to asylum may be granted by extension to family members and in practice to children. As for the age at which asylum or refugee status can be requested, Act 5/1984 of 28 March governing the right to asylum and refugee status does not mention it so that in principle is should be understood that only people who have reached their majority can submit a request. Nevertheless, if a foreign minor appears on Spanish territory, the administrative authorities in practice allow him or her to request recognition as a seeker of asylum or refuge, informing the authorities responsible for child protection, which, in this case, could evaluate the situation of unprotectedness ("desamparo") of the child concerned and assume guardianship.

312. The data at present available, relating to 8 months in the year 1992, show a total of 278 children under 18 years of age, in some cases on their own but mostly accompanied, who have requested asylum or refuge in Spain (see table 54).

B. Children in armed conflicts: physical and psychological recovery and social reintegration

313. Spain has not been directly involved in armed conflicts since 1939 and therefore does not have regulations of this type. As already emphasized in Section II the clear Spanish standpoint is to avoid children under 18 years of age taking part in armed conflicts.

314. Furthermore, it must be pointed out that in the programme for receiving in Spain displaced persons from the territory of former Yugoslavia, launched on the occasion of the conflict in that territory, criteria were drawn up and applied that paid special attention to the psychological effects on children, who are in every case received with some accompanying family member. It is primarily NGOs that participate in this programme (Spanish Commission for Aid to Refugees and Movement for Peace, Disarmament and Freedom), together with local administrations, 13 Autonomous Communities, the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Social Affairs.

315. The objectives of the programme are:

(a) In the short term:

to develop schemes of activities for future possible situations when refugees are received;

to give them lodging;

to give them economic, social and educational support;

to give them health assistance;

to facilitate their learning of Spanish;

(b) In the long term:

to encourage their return to their own country, provided that conditions are favourable;

to ensure the extension of the projects at least for one year;

to study individually requests for refugee status in some cases and an extension of visa to obtain residence and work permits in Spain in other cases;

to encourage family reunification;

to facilitate communication with their countries of origin;
to promote social adaptation.

316. 1,353 persons had been welcomed in Spain by the end of 1992, 718 of them being under 18 years of age (see table 55).

317. The bodies created to coordinate this programme are:

(a) an Inter-ministerial Commission, with representatives of the Ministry of the Interior, Ministry of Foreign Affairs (Consular Affairs Office and Human Rights Office) and Ministry of Social Affairs (Social Services Institute and Office for the Juridical Protection of Minors). Its functions are to take decisions regarding the legal situation of displaced persons, reuniting of families and matters such as assistance in health. It deals also with coordination of the public programme of welcome for ex-prisoners of war;

(b) a coordination council made up of the Spanish Committee for Assistance to Refugees, the Movement for Peace, Disarmament and Freedom, the Human Rights Office of the Ministry of Foreign Affairs and the National Social Services Institute and the Office for Juridical Protection of Minors. This council is concerned with following up the programmes, deciding questions submitted to it and making proposals to the Inter-ministerial Commission on the future of the displaced persons, their legal status, family regrouping, etc.;

(c) a Technical Follow-Up Commission made up of the aforementioned coordination council, the coordination office and a representative from each Autonomous Community that participates in particular projects;

(d) a Coordination and Information Office. Part of the Office for Juridical Protection of Minors, it is made up of a responsible official and a voluntary aid worker from non-governmental organizations. It makes itself responsible for evaluating, following up and systematizing the whole programme and provides follow-up reports and management reports on the subjects submitted to it. It convenes the coordination council and submits proposals to it. Together with the NGOs it visits the projects and deals with cases of return, reuniting of families, search for missing persons, correspondence, etc.

C. The administration of juvenile justice and the measures taken

318. Fundamental Act 4/1992, already quoted in Section I.B was drawn up by bringing together the rights recognised in the Convention and the recommendations to be found in other international texts, such as the Beijing Rules (United Nations Standard Minimum Rules for the Adminstration of Juvenile Justice) adopted by the General Assembly in resolution 40/33 of 29 November 1985, which applies to minors between the ages of 12 and 16 years.

319. In addition, Act 4/1992 introduces the principle of appropriateness throughout the procedure.

(a) Thus, when the Government Procurator is made cognizant of the commission of an offence by a minor, he has the choice between taking proceedings against that minor or not doing so;

(b) The juvenile court, in view of the minor nature of the offense and having regard for the conditions and circumstances of the juvenile concerned and the fact that violence or intimidation has not been employed or that the juvenile has compensated for or promised to compensate for the damage caused to the victim and always provided that the Government Procurator so requests, may shelve the case; otherwise the court summons the juvenile to appear before it;

(c) In the same way and once the juvenile has appeared or later, when the Government Procurator presents the report on the allegations, the court may hand over the juvenile to the branches of the administration responsible for minors so that they can adopt the educational measures they deem appropriate.

320. Furthermore, this Act mentions on two occasions the possibility of repaying the damage. The first mention has already been quoted and the second is connected with the suspension of the sentence, since the court suspends sentence when it is generally agreed that the juvenile, with due assistance, and those who have sustained the damage accept a proposal for reparation outside the courts.

321. The list of possible measures is as follows:

A warning or detention for a time during one to three weekends.

Probation.

Fosterage by another person or family nucleus.

Deprivation of the right to drive motorcycles or motor vehicles.

Provision of community service.

Outpatient treatment or admission to a treatment centre.

Admission to an open, semi-open or custodial establishment.

In the same way, this Act lays down two years as the maximum duration of any penalty incurred.

322. These measures are imposed by the juvenile judge who, in addition to judicial training like other judges, attends a special course in which he acquires knowledge of psychology, sociology and other non-legal subjects as well as carrying out practical tasks. The Juvenile Courts were established in 1985 as judicial bodies within the ordinary system of courts. The Act for Judicial Demarcation and Planning of 28 December 1988 provides for the creation of 70 courts of this kind.

323. As already stated in Section II, between the ages of 16 and 18 years a minor bears full criminal responsibility but his or her age is considered as an attenuating circumstance.

324. In 1992 the number of minors arrested by the police was 6,777 (5,835 male and 942 female), of whom 925 were arrested on more than one occasion because they had committed further offences (see table 56).

325. The most recent data available show that during 1989 juvenile judges opened or reopened 16,817 cases against minors for offences or misdemeanours. Together with the backlog from the previous year, they resolved a total of 17,797 cases. Only a very small proportion of these cases resulted in custodial measures (see table 57).

326. According to the data supplied by the Defender of the People, on 31 December 1989 there were in Spain 847 juveniles in reform centres for delinquents, only 46 of whom were girls. Of the total 65 were in special custodial centres because they had committed more serious offences. Almost all the centres of this type in Spain are public, only 61 of the juveniles being kept in centres belonging to private institutions under public supervision (see tables 58 to 60).

D. Imposition of capital punishment and life imprisonment

327. The Spanish Constitution prohibits torture and inhuman or degrading punishment or treatment. In the same way it prohibits the death penalty, except as laid down by military criminal law during time of war. Life imprisonment is prohibited by the Criminal Code, which establishes a maximum sentence of 30 years for adults. In the case of juveniles under 16 years of age, as already stated, no sentence of more than two years may be imposed.

E. Physical and psychological recovery and social reintegration

328. The Act on Social Integration of the Handicapped, dated 7 April 1982, spells out the obligation of the State to ensure prevention and to provide medical and psychological care and adequate rehabilitation, education, guidance and integration in working life and guarantees some economic, juridical and social minimum rights and social security for persons with deficiencies.

329. The Autonomous Communities, which are the public administrations responsible for planning the social services on their territory, have mechanisms available for providing the welfare of children and adolescents, particularly in cases in which the social and family environment involves a high social risk, by giving assistance to individuals and promoting solutions comprising social reintegration in normal life and avoiding marginalization. In this matter several non-governmental organizations collaborate. Among them may be mentioned, because of its special tasks and establishments, the Spanish National Organization for the Blind.

330. Some of the general measures of reintegration for handicapped or seriously ill persons have been mentioned in Section VI.C.

331. All the above is connected with the application of the constitutional right to non-discrimination quoted in Section II.A of this report, which also mentions other preventive measures and interventions in situations of social inequality.

332. As has already been mentioned, within the school system a considerable range of resources is available designed to guarantee non-discrimination, recovery and social reintegration in accordance with the details set forth in Section VII.A.

333. Finally, it should be mentioned that various public administrations in Spain have, during the last few years, launched services and programmes for the recovery and reintegration of persons affected by specific problems, including children under 18 years of age. Perhaps the most common have been concerned with aid to drug abusers but mention may also be made of those providing aid to the victims of offences, those affected by disasters, etc.

F. Economic exploitation, including child labour

334. The Criminal Code punishes those individuals who sexually exploit minors, whether directly or through their utilisation for prostitution or for pornographic purposes.

335. As for child labour, as part of Spanish legislation the Workers' Statute fixes the age of commencing work at 16 years and working by children under that age is prohibited. The only exception envisaged is the participation of a child in public spectacles in exceptional cases and with prior authorization of the labour authorities, always provided that it does not involve danger for physical health or for the child's human or professional training.

336. Workers aged between 16 and 18 years are forbidden to perform unhealthy, heavy or dangerous tasks (Decree of 26 July 1957), nor may they work overtime or do night work (Articles 6.2 and 6.3 of the Workers' Statute).

337. During the last few years in Spain control over school truancy has been increased and a close watch has been kept on the work of children under 18 years of age. The number of cases rose from 880 in 1991 to 1,524 in 1992 and offences were confirmed in 415 and 327 cases respectively (see table 57). The most difficult offence to detect is work in small family enterprises.

338. Among the foreign juveniles who reside in Spain a total of 976 (637 boys and 339 girls) who are 16 or 17 years of age, that is to say of an age to work legally in Spain, held a valid work permit on 31 December 1991 (see table 62).

339. The Autonomous Communities with most juvenile workers were Madrid with 302 (143 males and 159 females) and Catalonia, with 152 (119 males and 33 females). Of the total only 19 were working on their own account, making the number working for others 957. The great majority (627) were working in the service sector, while 145 were employed in industry, 101 in building and 87 in the agriculture sector.

G. Drug abuse

340. The Criminal Code punishes illicit traffic in drugs, and makes the penalties greater when they are supplied to juveniles or introduced into or distributed in schools and when the guilty person is someone in authority, a public servant, a social worker, a teacher, or an educator.

341. In total, in the survey on schoolchildren and health carried out in 1990, it was found that in the eighth year of basic general education 6% of the boys and 3% of the girls had tried cannabis once, whereas in the second year of vocational training 32% of boys and 20% of the girls had done so (see table 63). In some marginal groups in the big cities social workers in the basic network of social services and the local police had discovered early consumption of inhalable substances. These findings have led to greater importance being attached to the development of programmes of education for health in schools, an effort in which the various branches of the Spanish public authorities involved have collaborated intensively.

342. The National Drug Plan mentioned in Section VI.A is the mechanism of greatest scope deployed in Spain for coordinating all the existing resources, especially in matters of prevention.

H. Sexual exploitation and sexual abuse

343. In addition to punishing prostitution, corruption, rape and sexual abuses of juveniles, it must be pointed out that the Criminal Code increases the penalties when the guilty persons are parents, grandparents, tutors or teachers and the courts may deprive parents or tutors of their parental or guardianship functions.

344. For administrative purposes sexual abuse is considered as ill-treatment and so forms part of all the objectives and activities of the programmes described in Section V.B.4.

345. An important initiative of the Ministry of the Interior during the last few years has been the establishment and consolidation of juvenile groups within the national police force. They already exist in fact in 13 metropolitan areas, (Barcelona, Bilbao, Granada, Jaen, Madrid, Malaga, Palma de Mallorca, Las Palmas in the Canaries, Pamplona, Santa Cruz de Tenerife, Seville, Valencia and Saragossa). Their duties relate both to care and transfer of juvenile delinquents and to offences committed against juveniles. Their role as a specialist corps is especially important for detection and prosecution of offences against the sexual liberty of juveniles, in which they have been remarkably effective.

I. Sale, trafficking and abduction of children

346. The Spanish Criminal Code punishes the sale of and traffic in children, regarding as offences the concealment of childbirth, the substitution of one child for another and the usurpation of civil status. Furthermore, the draft Criminal Code now being discussed in Parliament includes a new type of offence related precisely to the provisions of the Convention, viz. traffic in children for purposes of adoption and against payment.

347. In the same way the Criminal Code deals with the abduction of juveniles, distinguishing two types of conduct under this heading:

(a) abduction of a child under 7 years of age;

(b) persuading a child over 7 years of age to abandon its home.

J. Children belonging to minorities

348. In Spain the most prominent minority is the gypsy population, and in regard to it the Government established in 1985 a programme for gypsy development. The general objectives of the programme are:

(a) To improve the living conditions of Spanish gypsies until they reach levels of equality with the rest of the citizens;

(b) To facilitate their social integration through access to normal networks of social welfare;

(c) To promote better solidarity between all citizens and encourage respect for gypsy culture;

(d) To establish channels through which gypsies can participate in matters that affect them.

349. The types of activity which are being developed are as follows:

(a) coordination with other ministerial departments and with the executive centres of the Ministry of Social Affairs;

(b) collaboration with the Autonomous Communities and through them with the local corporations;

(c) financial and technical cooperation with private associations and institutions of a non-profit making nature with gypsy members and promoting programmes to encourage gypsy development;

(d) collaboration with international bodies.

350. Collaboration with the Autonomous Communities involves co-financing of projects for which the Ministry of Social Affairs contributes 60% and the Autonomous Communities 40%. In 1991 the budget of the Ministry of Social Affairs for this purpose amounted to 500 million pesetas and in 1992 to 525 million. The financing of NGOs amounted to 203,950,000 pesetas in 1991 and in 1992 to 247,000,000.

351. In 1990 a Consultative Commission of Gypsy Associations covering the whole of Spain was set up.

352. Furthermore, and as already stated, Spain in the last few years has been transformed from a country of emigration to a country of immigration, particularly since 1973. Among the new wave of foreign immigrants and despite the fact that Spain is not one of the countries of the European Community with the highest rates of immigration, it is foreseeable that other minorities are becoming increasingly important in Spanish society. There is no doubt that possible attitudes of rejection (racism and xenophobia) will have to be given more attention in the very near future.

353. The basic legislation and regulations governing immigration are composed of three groups of documents:

(a) Spanish legislation;

(b) Treaties and conventions of international bodies ratified by Spain;

(c) The regulations of the European Community.

354. To support the integration in school of boys and girls who are children of foreign immigrants, there are in Spain the various teams described in Section VIII.A as well as resources allotted to the programme of remedial education referred to there.

355. The Spanish Committee for UNICEF is developing some activities of collaboration with the NGO "General Gypsy Association and Secretariat" with a view to contributing to the education and acceptance of Spanish gypsy children. It should be emphasized that in addition to publicity activities, this collaboration has enabled a pilot programme of activities based on the school to be developed for improving inter-ethnic relationships. It has four working components:

1. The transformation of curriculum contents to make learning more significant;

2. Cooperative learning;

3. Adaptation of the method of moral discussion to the first years of schooling in situations were social conflict exists;

4. Training in expectations.

356. Finally, it is important to point out that the Ministry has given decisive support to a wider campaign for combating racism in Spain under the title of "Democracy and Equality" and supported by 9 large NGOs and 2 trade union centres, which was launched in January 1993 in all the communication and advertising media with the support of printed material.